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SUPREME COURT OF THE UNITED STATES.

No. ~~469~~ 194

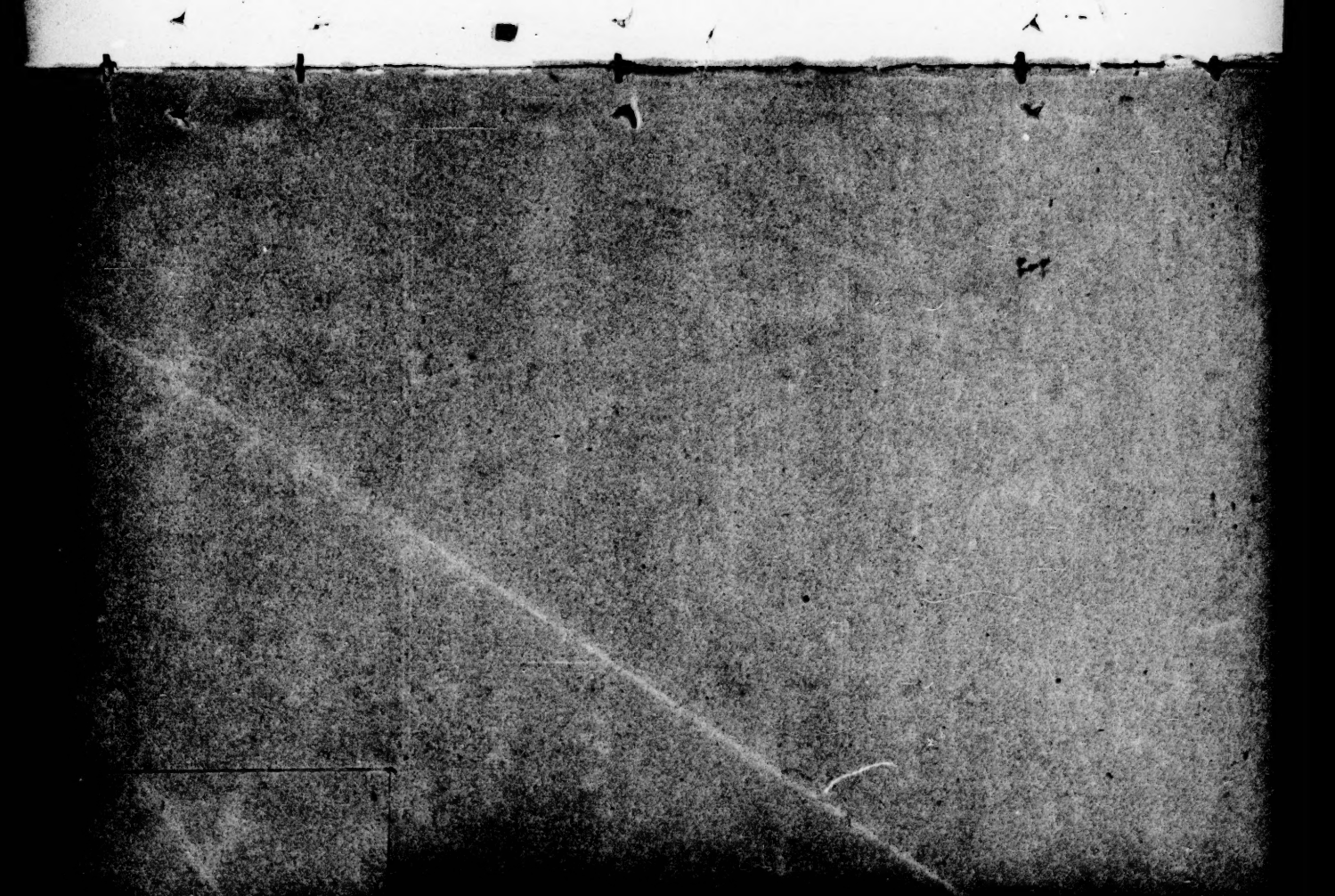
WILLIAM WEIGHTMAN AND CHARLES DAY, APPELLANTS,

vs.

WILLIAM C. CLARK ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ILLINOIS.

FILED SEPTEMBER 10, 1878.



SUPREME COURT OF THE UNITED STATES.

No. 469.

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vs.

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1 Pleas in the circuit court of the United States of America, for the southern district of Illinois, held at the city of Springfield, in said district, before the Hon. Samuel H. Treat, district judge of said district, and in the absence of the Hon. Thomas Drummond, judge of the seventh judicial circuit, pro tempore, sole judge of said circuit court, on Monday, the 15th day of April, at the January term of said court, in the year of our Lord eighteen hundred and seventy-eight, and of our Independence the one hundred and second year.

J. A. JONES, *Clerk*.

WILLIAM C. COOK, ARTHUR HARMON, THOMAS C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrow, Elijah M. Rees, William L. Ransdall, J. J. Jones, Jesse Jones, jr., David Rauling, J. I. Barrows, Edward Craig, James W. Craig, J. V. Fry, S. S. Tunnell, Barnabas Barrows, Wm. Leak, Hoopes Carlile, Eneas Scott, Jacob H. Peaks, R. Sample, John Harmon, Francis Mayfield, O. D. Jasper, James Mulan, John S. Dougherty, Thomas Swain, William Haynes, Wm. Bateman, P. G. Bourland, Patrick Ryan, Robert Seymour, jr., F. M. Scott, William Pierce, William C. Clayton, Peter Roberts, Miles Lyons, Henry Lukeman, Sylvanus Scott, A. B. Waid, J. H. Hill,
2 O. W. Topliff, John Ryan, John Spires, Anthony Dunigan, Job Coates, Edward T. Tilling, David M. Cox, Mike Cokle, Patrick Dunigan, Edward E. Gray, Henry Stump, Arthur Harman, James N. Clayton, B. T. Vaughn, Wm. A. Slack, P. Hamign, Wm. G. Wyatt, James Oxley, C. M. Hawkins, Francis Clayton, John Burp, Andrew Lowery, David S. Dessau, Wm. H. Pardy, J. B. Mayfield, Samuel Keplinger, John Stark, John F. Davenport, Merritt C. Davenport, Patrick Harmon, Charles H. Pierce, J. A. Boyer, Wm. C. Clark, John Meredith, Green, Haynes, Thos. C. Brown, A. T. Bourland, James Scott, Frank Pothost, Mrs. Fromine, John Luppman, William Wiser, Ezra C. Scott, Jerry and Corridan Cox, W. T. Massie, J. M. Coons, R. M. Fanning, Wm. D. Gregory, Geo. Clayton, Albert W. Cox, C. T. Davenport, Frank Wigginjost, Jacob Boyer, James M. Cox, Moses L. Clayton, William Thompson, Sarah M. Dodsworth, Sarah Dodsworth, and Richard Palmer,

} In chancery.

vs.

WILLIAM WEIGHTMAN, CHARLES DAY, IRWIN Dunlap, sheriff and ex-officio collector of Morgan County, State of Illinois, and Samuel M. Martin, county clerk of Morgan County, State of Illinois.

SOUTHERN DISTRICT OF ILLINOIS, *ss*:

3 Be it remembered that heretofore, to wit, on the 8th day of

November, in the year of our Lord eighteen hundred and seventy-seven, came said defendants, by Wm. Thomas, esq., their solicitor, and filed in the office of the clerk of said court their transcript of the record and proceedings had in the circuit court of Morgan County, Illinois, which said transcript is in the words and figures following, to wit:

Transcript from Morgan County.

UNITED STATES OF AMERICA,
State of Illinois, Morgan County, ss:

In circuit court, May term, A. D. 1877.

Pleas before honorable Cyrus Epler, judge of the eighteenth judicial circuit of the State of Illinois, and sole presiding judge of the circuit court of Morgan County, in the State aforesaid, and at a term thereof begun and held at the court-house in the city of Jacksonville, in said county, on the second Monday, being the 14th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, in chancery sitting.

Present, honorable Cyrus Epler, judge; Irwin Dunlap, sheriff; John N. Marsh, clerk.

Be it remembered that heretofore, to wit, on the 21st day of March, A. D. 1876, there was filed in the office of the clerk of said court
4 a certain bill in chancery in the words and figures following, to wit:

Bill.

In Morgan circuit court of the May term, A. D. 1876.

STATE OF ILLINOIS,
Morgan County, ss:

To the honorable Cyrus Epler, judge of said court, in chancery sitting:

Humbly complaining sheweth unto your honor, your orators William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall, of township No. fourteen (14) north, of range numbered nine (9) west, in Morgan County, State of Illinois, who sue for themselves and on behalf of other tax-payers of said twonship, whose names and property taxable in said township are hereinafter mentioned and set forth, that they are the owners and liable for taxes on the real estate and personal property hereinafter mentioned as being in said township numbered fourteen (14) north, of range numbered nine (9) west, in Morgan County, State of Illinois, and being subject to taxation in said township, and that a particular description of said real estate is hereinafter given, and the valuation of said personal property is hereinafter set forth opposite the names of your orators and the other tax-payers of said township on whose behalf they sue as aforesaid, and your orators state unto your honor that they are specially authorized to
5 sue on behalf of those other tax-payers whose names are hereinafter mentioned.

And your orators further state and show unto your honor that on the day of October, A. D. 1870, the trustees of schools of township

numbered fourteen (14) north, of range numbered nine (9) west, in Morgan County, State of Illinois, being the same township hereinbefore mentioned, without any legal power or authority so to do, did assume to make, execute, and deliver, and did make, execute, and deliver certain papers, thirty-two in number, in the form of and on the face of said papers purporting to be bonds of said township, each for the sum of one thousand dollars, bearing interest from date at the rate of ten per centum per annum, as specified in certain interest warrants or coupons hereto attached, and each of said so called bonds being made payable to the Illinois Farmers' Railroad Company or bearer, and each due in 20 years after date; said so-called bonds were subscribed by the president and clerk of said board of trustees of schools of said township. That said so-called bonds bear date of the first day of October, A. D. 1870, though in fact they were not, as your orators are informed and believe, issued until the 31st day of October, 1870.

And your orators further state unte your honor that said trustees of schools of said township issued bonds to said railroad company to aid said company to build the Illinois Farmers' Railroad through said township No. 14, 9; said company agreeing to issue stock of said rail-
6 road company to said township to the amount of $32,000. Your orators are informed and believe that said stock never was delivered to said trustees of schools, and your orators charge that the consideration for the issue of said bonds wholly has failed.

And your orators further state and show unto your honor that after said co-called bonds were issued as aforesaid and delivered to said railroad company, the said railroad company or the bearer of said called bonds procured the president of said board of trustees of schools to make a certificate under his oath to the auditor of public accounts of the State of Illinois, in order to procure the registration of said so-called bonds in the office of said auditor of public accounts. That said certificate was made on the 10th day of November, A. D. 1870, and a certified copy of said certificate will be produced on the hearing hereof, and that said so-called bonds with said certificate were afterwards, on the 18th day of November, 1870, as your orators are informed and believe, presented to the said auditor of public accounts of the State of Illinois for registration.

And your orators further state unto your honor that on said 18th day of November, A. D. 1870, the auditor of public accounts, without any lawful power so to do, actually did register said so-called bonds in his office, for the purpose of making said so-called bonds and coupons the basis of estimating the amount of and causing taxes for the pay-
ment of the amount of the interest to accrue on said so-called
7 bonds, together with the expenses of the collection of said sums of money, to be levied upon the taxable property of your orators and the other tax-payers of said township No. fourteen (14) north, of range No. nine (9) west.

And your orators further state unto your honor that said auditor of public accounts, after said so-called bonds were so by him registered as aforesaid, without any lawful authority so to do, did, during the year A. D. 1875, estimate the sum, which he found to be equal to the amount of interest accrued on said so-called bonds to the day of , A. D. 1876, and the costs of collecting the same, and did certify the said amount to the clerk of the county court of Morgan County, State of Illinois, in order that the said sum so certified should be by said clerk of said county court extended, charged against, and levied

upon the taxable property of your orators, and all of the other taxable property in said township, for the year 1875.

And your orators further state unto your honor that the said the county clerk of Morgan County, Samuel M. Martin, and who is made a defendant to this your orator's bill of complaint, did, after he received said certificate, or statement, or order of said auditor of public accounts of the State of Illinois, as aforesaid, that is, during the year A. D. 1875, without any lawful power or authority so do, did actually extend and charge against the taxable property of your orators and against all of the taxable in said township No. 14 north, of range
8 No. 9 west *west*, on the tax-lists or tax-books of Morgan County, State of Illinois, for the year A. D. 1875, the said sum of money so certified to him by said auditor of public accounts, for the purpose of paying the interest on said so-called bonds as a part and parcel of the taxes against said property for the said year 1875, and that said clerk made said extension of said sums of money against said taxable property in said township by the description of "township bond tax" in a separate column on said tax books; and that said clerk, after having so extended and charged said sum of money against the said property of your orators, being in said township, and against all of the taxable property in said township, for the purpose aforesaid, by the description aforesaid, he, the said defendant, to further wrong and injure your orators, and all of those on whose behalf your orators sue, delivered the said tax books or tax-lists for the said year 1875, with the said sum of money so unlawfully and wrongfully charged thereon against their said property, so being situate in said township, as such county clerk, without any lawful authority in respect to said sum so unlawfully charged as aforesaid, to said Irwin Dunlap, the sheriff and ex-officio collector of taxes in and for the county of Morgan and State of Illinois, for the purpose of causing and commanding the collection of said sum of
9 money from your orators, and those on whose behalf your orators sue.

And your orators further state unto your honor that the said Irvin Dunlap, as such sheriff and ex-officio collector of taxes in and for the county of Morgan and State of Illinois, and who, as such, is made a defendant to this your orator's bill of complaint, after said sum of money had been so certified as aforesaid by said auditor of public accounts to said county clerk, and by him, the said county clerk, extended and charged as aforesaid against the taxable property in the township aforesaid, on the books aforesaid, received said books with the said so-called bond tax extended and charged thereon as aforesaid, with the other taxes to be by him collected, said tax books or tax lists, commonly called collectors' books, as the collector of taxes in and for the county of Morgan and State of Illinois for the year A. D. 1875, for the purpose of collecting all of the money thereon charged.

And your orators further state unto your honor that your orators and the other tax-payers on whose behalf they sue are the owners, and are liable ror all taxes lawfully levied against and upon the parcels of lands and town lots and amounts of personal property set opposite to their respective names, as lands, town-lots, or amounts of personal property, on the pages here following whereon such names and real and personal property are set forth.

10 And your orators further state that there is now on said collector's books, charged against said real estate and amounts of personal property on said pages here following as "township bond tax," the amount of money undert he name of "township bond tax" on

said pages here following as aforesaid set opposite the said several parcels of real estate and amounts of personal property, and that said sums of money which are now wrongfully and illegally charged against the property of your orators, and of the other tax-payers of said township 14 north, of range 9 west, in Morgan County, State of Illinois, on whose behalf your orators sue, on the tax-books now in the hands of said county collector of taxes of your orators, and which said pages above mentioned as containing the names of the other taxpayers joining in this suit as aforesaid, and also containing the lists of real and personal property and the amount of so-called "township bond tax" so wrongfully and illegally levied as aforesaid, are copied from the said tax-books now being in the hands of said collector, which lands, town-lots, and amounts of personal are situate in and taxable in township No. 14 north, of range No. 9 west, in Morgan County, State of Illinois.

11 *Lands in township* 14 *north, of range* 9 *west, in Morgan County, Illinois.*

Owners' names.	Subdiv. of section.	Section.	No. of acres.	Township bond tax.
E. M. Rees	W. ¼ NE. ¼	27	80	8 20
E. M. Rees	E. ½ NW	27	80	14 58
E. M. Rees	E. ½ SW	27	80	9 11
E. M. Rees	W. ½ E. ½ SE	27	40	4 50
E. M. Rees	Part W. ½ SE	27	79¾	9 11
Arthur Harmon	W. ½ E. ½ SE	6	40	6 38
Arthur Harmon	W. ½ SE	6	77	7 29
William Leak	SW. NW	21	40	5 56
William Leak	W. ½ SE	21	80	10 02
William Leak	E. side W. ½ SW	33	10	55
Hoopes Carlisle	SW. NE	20	40	4 56
Hoopes Carlisle	N. ½ SE	20	80	9 11
Eneas Scott	W. ½ NW. ¼	27	80	9 11
Eneas Scott	NW. SW	27	40	4 56
Eneas Scott	NE	28	160	21 85
Eneas Scott	NE. SE	28	40	4 56
Eneas Scott	NW. SE	28	40	4 56
Eneas Scott	Part W. SW	33	40	2 28
Eneas Scott	W. ½ NW ¼	34	80	8 20
Jacob H. Peak	NW	13	160	17 31
Jacob H. Peak	SW. SW	13	4	4 10
Jacob H. Peak	E. ½ NE	14	80	8 63
12 Jacob H. Peak	SE. SE	14	40	4 10
Jacob H. Peak	NE. NE	23	40	4 56
Jacob H. Peak	NW. NW	24	41½	4 10
Richard Sample	Part E. ½ NW	10	30	2 74
John Harmon	E. ½ SW. ¼	14	77	8 20
John Harmon	W. ¼ SW. ¼	14	77	10 02
John Harmon	E. ½ SE	15	80	8 66
Francis Mayfield	E. ½ SE	22	76	7 74
Francis Mayfield	W. side SW	23	100	10 93
Francis Mayfield	W. side W. ½ NE	26	26	2 28
Francis Mayfield	E. ½ E. ½ NW	26	39	3 87
Francis Mayfield	Part W. side NW	26	98	9 11
Francis Mayfield	E. ½ SW	26	80	9 11
James Whelan	E. ½ SW	22	80	8 20
James Whelan	P't W. ½ SW	33	10	55
John S. Dougherty	N. ½ NE	24	80	9 11
William Bateman	S. ½ NE	13	80	10 03
William Bateman	No. 2, E. ½ SW	36	10	64
H. G. Keplinger	SE. SW	24	40	3 65
H. G. Keplinger	SW. SE	24	40	3 65
13 H. G. Keplinger	NW. NE	25	40	4 10
H. G. Keplinger	NE. NW	25	40	5 48
P. G. Bourland	NE. NE	34	40	4 56
P. G. Bourland	NE. NW	35	40¾	4 56
P. G. Bourland	S. ½ NW	35	80	8 20
Robert Seymour	SW			
F. M. Scott	Part E. ½ NE	36	53	10 02
F. M. Scott	No. 5, E. ½ SW	36	10	64
F. M. Scott	No. 6, E. ½ SW	36	10	64

Lands in township 14 *north, of range* 9 *west, in Morgan County, Illinois*—Continued.

	Owners' names.	Subdiv. of section.	Section.	No. of acres.	Township bond tax.
	F. M. Scott	No. 7, E. ½ SW	36	10	64
	F. M. Scott	N. end E. ½ SE	36	25	2 74
	F. M. Scott	E. ½ W. ½ SE	36	40	2 28
	William Pierce	SE. NE. SE	4	10	73
	William C. Clayton	E. ½ SW	13	80	8 66
	William C. Clayton	S. end W. ½ SE	23	47	4 56
	William C. Clayton	SW. NE	24	40	4 10
	William C. Clayton	E. ½ NW	24	80	9 11
	William C. Clayton	NE. SW	24	40	4 10
	William C. Clayton	NW. SE	24	40	4 10
	William C. Clayton	E. side W. ½ NE	26	51	9 11
	William C. Clayton	W. ½ E. ½ SE	26	40	4 10
	William C. Clayton	W. ½ SE	26	79	8 20
14	William C. Clayton	NW. NE. NE	35	10	55
	William C. Clayton	Part W. ½ NW	36	15	73
	Peter Roberts	15 feet S. end W. ½ SE	27	¼	05
	Peter Roberts	SE. NE	34	40	4 10
	Peter Roberts	W. ½ NE	34	80	8 20
	Peter Roberts	SE	34	160	16 40
	Peter Roberts	Part SE	35	157½	10 02
	Peter Roberts	W. ½ NW. SW	36	20	1 14
	Miles Lyons	Part NE. SE. NE	35	7	46
	Miles Lyons	SE. SE. NE	35	10	64
	Miles Lyons	W. ½ SE. NE	35	20	1 60
	Miles Lyons	NW. NE	35	39	3 88
	Miles Lyons	SW. NE	35	40	3 88
	Miles Lyons	Part NW. NW	35	39½	3 88
	A. B. Waid	Part SE. NW	36	¼	28
	I. H. Hill	Part E. ½ NW	36	1¼	28
	Emma S. Hill	Part E. ½ NW	36	1¼	3 19
	John Ryan	S. end E. ½ SW	10	55	5 07
	John Ryan	W. ½ W. ½ NE	15	40	4 10
	John Ryan	E. ½ NW	15	80	10 02
15	John B Cox	S. end E. ½ SE	3	20	1 14
	John B. Cox	S. end W. ½ SE	3	20	1 60
	David S. Dessau	Part W. ½ NE	36	1¼	1 37
	Henry Reinbach	Part E. ½ NE	36	¾	55
	Henry Reinbach	Part W. ½ NE	36	2¼	46
	Henry Reinbach	Part W. ½ NE	36	2	5 48
	Henry Reinbach	Part W. ½ NE	36	1	28
	Henry Reinbach	No. 1, E. ½ SW	36	10	64
	Henry Reinbach	No. 2, E. ½ SW	36	10	64
	Henry Reinbach	No. 3, E. ½ SW	36	10	64
	Henry Reinbach	No 4, E. ½ SW	36	10	64
	Henry Reinbach	W. ½ NW. SE	36	20	1 37
	Wm. N. Pandy	Part E. ½ NE	36	1¼	1 83
	J. B. Mansfield	Part E. ½ NE	36	3¼	2 28
	Samuel Keplinger	E. ½ SE	23	80	9 11
	Samuel Keplinger	SW. SW	24	40	3 65
	Samuel Keplinger	P't W. ½ NW	25	74	7 75
	Samuel Keplinger	NW. cor. W. ½ SW	25	3	37
	Samuel Keplinger	E. ½ NE	26	80	13 66
	Samuel Keplinger	E. ½ E. ½ SE	26	39	3 88
	Patrick Harman	E. side NW	3	117	12 30
16	Patrick Harman	Part W. ½ NW	10	15	92
	I. A. Boyer	S. ½ SW. ½ NE	10	20	1 60
	I. A. Boyer	S. end W. ½ SW	11	60	5 93
	William C. Clark	E. ½ SE	1	80	11 39
	William C. Clark	Part E. ½ W. ½ SE	3	22½	2 05
	Greene Haynes	W. ½ SE	22	80	8 20
	Thomas C. Brown	W. side NW	26	20	2 74
	Thomas C. Brown	W. ½ SE	26	80	9 11
	Thomas C. Brown	E. ½ NE	27	80	8 20
	Thomas C. Brown	E. ½ E. ½ SE	27	40	4 56
	Jonas Scott	W. ½ SW. ½	22	80	8 20
	Jonas Scott	E. ½ SE	21	80	10 93
	Jonas Scott	NW. W. ½ SW	33	10	55
	Mrs Fromme	SE. NE	11	40	4 56
	Mrs. Fromme	S. end NW. NE	11	30	3 19
	Mrs. Fromme	SW. NE	11	40	5 02
	Mrs. Fromme	S. ½ NW	12	80	8 66
	Ezra C. Scott	NW. NE	20	40	4 56
	Ezra C. Scott	E. ½ NW	20	80	9 11
17	Corydon Cox	NW	4	159	17 31
	Jerry Cox	S. ½ S. ½ SW. SW	3	10	64
	Jerry Cox	S. ½ W. ½ SW. SE	4	10	92
	Jerry Cox	N. end E. ½ NW	9	10	92
	Jerry Cox	N. end E. ½ NE	9	60	5 48

Lands in township 14 *north, of range* 9 *west, in Morgan County, Illinois*—Continued.

	Owners' names.	Subdiv. of sec.	Section.	No. of acres.	Township bond tax.
	Jerry Cox	N. end E. ½ W. ½ NE	9	30	2 74
	Jerry & Corydon Cox	W. ½ NE	4	80	8 66
	Jerry & Corydon Cox	N. end E. ½ SW	4	60	5 47
	Wm. T. Massie	E. ½ NE	25	80	8 20
	Wm. T. Massie	P't E. ½ NW	36	21	1 14
	Jesse Jones, jr	N. end E. ½ NW	29	20	2 25
	J. I. Barrows	S. end W. ½ SW	18	30	3 65
	J. I. Barrows	W. ½ NW	19	91	10 02
	J. I. Barrows	E. ½ NE	30	80	8 20
	Josiah Barrows	W. ½ NE	30	80	8 20
	Edward Craig	SW. NW	18	44	5 02
	Edward Craig	N. end W. ½ SW	18	58	7 39
	Jas. W. Craig	S. ½ NE	19	80	9 11
	Jas. W. Craig	E. ½ NW	19	80	10 02
	W. P. Six	W. ½ SW	35	80	8 20
18	John Spires	Part E. ½ SE	32	78	4 10
	John Spires	NE	33	160	18 21
	John Spires	SE. NW	33	8	3 19
	John Spires	NW. corner E. ½ SW	33	2	46
	John Leak	E. side E. ½ NW	23	60	8 20
	John Leak	E. side SW	23	60	6 83
	John Leak	Part W. ½ NW	36	15	73
	Charles Price	SW. NE. SE	4	10	82
	James Bonds	SW	21	160	19 13
	Job Coats	SE	19	160	17 31
	Edward T. Tillings	E. side SE. SW	28	30	3 65
	Edward T. Tillings	E. side NW.	33	70	6 83
	Moses L. Clayton	SW. NE	25	40	5 48
	Moses L. Clayton	SE. NW	25	40	4 10
	Moses L. Clayton	N. part SW	25	44	4 56
	Benjamin F. Vaughn	SW. NW	36	40	2 28
	Edwin E. Gray	NE	1	160	17 22
	Edwin E. Gray	S. ½ NW. SE	4	80	1 60
	David M. Cox	NW. SW	2	40	4 46
19	John Meredith	N. end W. ½ NW	29	60	7 29
	Albert W. Cox	W. ½ NE	3	78	10 02
	Albert W. Cox	N. end W. ½ SE	3	5	46
	Frank Wigginjoist	SW. corner S. end E. ½ NW	5	10	92
	Frank Wigginjoist	N. end W. side E. ½ SW.	5	5	55
	Frank Wigginjoist	P't W. ½ E. ½ SW	5	5	46
	Thomas Swain	SE. NE	24	40	4 10
	Thomas Swain	NE. SE	24	40	3 65
	Henry Lukeman	N. ½ S. ½ SW. S W	3	10	64
	Henry Lukeman	NE	12	160	17 31
	Henry Lukeman	E ½ SE	12	80	8 20
	John Starkk	E side W. ½ SW	12	50	5 07
	John F. Davenport	W. ½ SE	1	80	7 29
	John Lukenmeyer	NW. p't W. ½ SW.	10	14	1 37
	Patrick Dunnigan	Part E. ½ NW	10	10	92
	Anthony Dunnigan	Part W ½ NW	10	15	92
	Anthony Dunnigan	W. side W. ½ NW	10	25	2 05
	Henry Stumpe	N. end W. ½ NW	10	17	1 83
20	Jacob Boyer	E. side W. ½ SW	10	54	5 07
	Jacob Boyer	N. end W. ½ NW	15	35	4 10
	Jacob Boyer	S. ½ NE. NE.	16	20	2 51
	Jacob Boyer	SE. NE	16	20	4 56
	James M. Cox	NE. NE	3	39	4 10
	James M. Cox	SE. NE	3	37½	4 10
	James M. Cox	N. end E. ½ SE	3	10	64
	Barnabas Barrows	SW	19	173	20 03
	Joseph Fry	N. end W. ½ NW	30	36	3 65
	Joseph Fry	S. end W. ½ NW	30	50	6 38
	Joseph Fry	SW. W. ½ SE	31	27	1 83
	William L. Ramsdall	NW	28	160	18 21
	William L. Ramsdall	NE. SW	28	40	4 10
	William L. Ramsdall	W. side SE. SW	28	10	92
	William L. Ramsdall	W. ½ SW	28	80	13 66
	William L. Ramsdall	E. ½ NE	32	80	5 49
	William L. Ramsdall	E. ½ W. ½ SE	32	40	4 10
	William L. Ramsdall	W. side NW	33	70	6 83
	William L. Ramsdall	NW. NW	33	12	1 14
	William L. Ramsdall	SE. cor E. ½ SE	32	2	46
	William L. Ramsdall	NE. SW	30	40	4 56
	William L. Ramsdall	SW. cor. E. ½ NW	30	6	65
21	Merril C. Davenport	SE. NE	4	40	3 65
	Merril C. Davenport	NW. NE. SE	4	10	82

Lands in township 14 *north, of range* 9 *west, in Morgan County, Illinois*—Continued.

Owners' names.	Subdiv. of section.	Section.	No. of acres.	Township bond tax.
Merril C. Davenport	N. ½ NW. SE	4	20	1 10
Frank Pothost	S. end NE. NW	11	30	4 10
Frank Pothost	Middle W. ½ NW	11	45	5 02
Stephen Tunnell	SE. NW	18	40	4 56
Stephen Tunnell	E. ½ SW	18	80	9 11
Stephen Tunnell	W. ½ SE	18	80	9 11
Stephen Tunnell	W. ½ NE	18	80	9 11
Arthur Harmon	E side W. ½ NE	7	78	10 02
Sarah Dodsworth	NW. SW	13	40	5 47
Sarah Dodsworth	N. ½ SE	14	80	10 02
Sarah Dodsworth	SW. SE	14	40	5 07
Sarah Dodsworth	SE. NE	23	40	5 06
Sarah Dodsworth	W. ½ NE	23	80	10 02
Sarah Dodsworth	N. end W. ½ SE	23	33	4 10
Sarah Dodsworth	SW. NW	24	34½	4 56
Sarah Dodsworth	NW. SW	24	40	4 56
Sarah Dodsworth	SW. NE. NE	35	10	1 14
Sarah Dodsworth	P't NE. SE. NE	35	3	46
Sarah Dodsworth	P't SE	35	2½	69
Sarah Dodsworth	S. end W. ½ NW	36	50	4 56
22 Sarah M. Dodsworth	P't S. end E. ½ SE	36	55	4 45
Wm. Thompson	W. ½ SE	17	80	10 02
Jesse J. Jones	SE. NW	21	40	4 10
Jesse J. Jones	SW. NE	20	40	4 10
James Oxley	E. ½ NE	20	80	9 11
Joab M. Fanning	N. end E. ½ SW	33	33	3 19
Joab M. Fanning	SW. cor. SW. SE	33	17	1 37
Joab M. Fanning	SE. cor. SW. SE	33	7½	69
Joab M. Fanning	N. end W. ½ SE	33	29	2 28
Joab M. Fanning	S. end E. ½ SW	33	45	4 10
Joab M. Fanning	Mid. W. ½ SE	33	26½	2 28
Joab M. Fanning	E. ½ SE	33	80	9 11
Wm. I. Wyatt	P't E. ½ SW	25	60½	8 20
Wm. I. Wyatt	SE	25	158	15 48
Wm. I. Wyatt	Pt W. ½ NE	36	43	2 28
Wm. I. Wyatt	P't E. ½ NW	36	40	2 74
Wm. I Wyatt	P't E. ½ NW	36	19½	2 28
Richard Palmer	P't SW	25	52½	5 48

23 *Town lots in the town of Franklin, township* 14 *north, of range* 9 *west, in Morgan County State of Illinois.*

Owners' names.	Part of lot.	Lot.	Block.	Township bond tax.
Francis Mayfield	26 by 36 feet p't of	42. 43	21	32
William C. Clayton	Wm. J. Wyatt's add'n	8	.....	20
William C. Clayton	Wm. J. Wyatt's add'n	9	.....	
A. B. Waird	Wm. J. Wyatt's add'd	22	.....	08
O. W. Topliff	Wm. J. Wyatt's add	47	.....	1 08
C. M. Hocking	Wm. J. Wyatt's add'n	25	9	52
Francis Clayton	Wm. J. Wyatt's add	32	14	72
Henry Reinbach	.....	19	.....	12
Henry Reinbach	.....	20	.....	2 19
Henry Reinbach	.....	21	.....	24
Henry Reinbach	.....	22	.....	12
Henry Reinbach	.....	23	.....	12
Henry Reinbach	.....	24	.....	24
Henry Reinbach	.....	25	.....	12
Henry T. Bourland	Wm. J. Wyatt's add	6	.....	72
Henry T. Bourland	Wm. J Wyatt's add	7	.....	
Wm. T. Massie	Wm. J. Wyatt's add., p't of	42. 43	21	20
J. M Coons	Wm. J. Wyatt's add., 60x200 feet, south side Jacksonville road, bounded by Clayton & McCullough.	.....	.....	64
Richard M. Fanning	.....	10	.....	40
William A. Slack	Wm. J. Wyatt's add	3	.....	60
William A. Slack	Wm. J. Wyatt's add'n	10	.....	1 28
James N. Clayton	Wm. J. Wyatt's add'n	1	.....	24

Town lots in the town of Franklin—Continued.

Owner's names.	Part of lot.	Lot.	Block.	Township bond tax.
Jas. N. Clayton	Wm. J. Wyatt's add'n	2	.....	12
Melvina Clayton	20 by 60 feet	13	.....	28
Melvina Clayton	.....	12	.....	.....
24 John Burup	.....	4	.....	60
John Burup	.....	5	.....	12
John Burup	20 feet north end	6	.....	08
Wm. Gregory	40 feet of south end	6	.....	60
William Gregory	.....	7	.....	08
William I. Wyatt	Wyatt's addition	1, 2, 3	1	21
Wm. J. W. Wyatt	Wyatt's addition	21, 23	.....	16
Wm. J. Wyatt	Wyatt's addition	23	10	08
Wm. J. Wyatt	Wyatt's addition	38	.....	08
Wm. J. Wyatt	Wyatt's addition, lots 11 to 21, inclusive	.....	.....	88
Wm. J. Wyatt	Wyatt's addition	23, 24	.....	16
Wm. J. Wyatt	W. J. Wyatt's addition	27, 28	.....	16
Wm. J. Wyatt	W. J. Wyatt's addition	29, 30	.....	16
Wm. J. Wyatt	Wm. J. Wyatt's addition	31, 32	.....	16
Wm. J. Wyatt	Wm. J. Wyatt's addition	33, 34	.....	16
Wm. J. Wyatt	Wm. J. Wyatt's addition	37, 35	.....	16
Wm. J. Wyatt	Wm. J. Wyatt's addition	37	.....	08
Wm. J. Wyatt	Wm. J. Wyatt's addition	38, 39	.....	16
Wm. J. Wyatt	Wm. J. Wyatt's addition	40, 41	.....	16
Wm. J. Wyatt	Wm. J. Wyatt's addition	42, 43	.....	16
Wm. J. Wyatt	Wm. J. Wyatt's addition	44	.....	08

25 *Personal property list of township* 14 *north, of range* 9 *west, in Morgan County, State of Illinois.*

To whom listed.	Township bond tax.	To whom listed.	Township bond tax.
Josiah Burrows	93	R. Sample	56
P. G. Bourland	1 64	F. M Scott	1 23
John A. Bowyer	82	John Spires	7 84
William Bateman	1 73	Wm. P. Six	74
Thomas C. Brown	4 27	Sylvanus Scott	1 46
Wm. C. Clayton	5 62	Eneas Scott	5 00
Albert W. Cox	99	Thomas Swain	74
Jer. & Corridon Cox	2 22	Ezra C. Scott	1 38
Job Coats	2 16	Jonas Scott	2 16
Hoopes Carlisle	1 03	Wm. Slack	17
William C. Clark	4 91	William M. Tandy	33
J. M. Coons	19	O. W. Topliff	17
James Craig	1 52	James Whalen	62
David S. Dessan	62	Frank Wigginjoist	62
Wm. Fromme	1 56	William Haynes	1 34
Richard Faning	17	Sylvanus Scott	1 46
I. H. Hill	39	John Stark	27
Patrick Harman	62	J. F. Davenport	59
John Hennon	2 08	Wm. Fromme	1 56
Arthur Harmon	82	Harmon Bros	1 71
H. G. Keplinger	5 05	M. C. Davenport	76
Samuel Keplinger	17 31	Frank Pethoat	56
Miles Lyons	95	James M. Cox	64
William Leak	1 95	William Ransdall	12 21
Frank Mayfield	3 08	27 Stephen Tunnell	2 16
John Mansfield	2 00	Jesse J. Jones	46
Jacob H. Peak	3 26	James Oxley	1 95
26 John Ryan	56	Richard Palmer	31
E. M. Rees	4 87	Wm. J. Wyatt	3 39
Henry Reinbach	2 98		

28 And your orator further states unto your honor that the said sheriff and ex-officio collector of taxes, since he has received said tax books or tax lists with said so-called "township bond tax" charged against said property of your orators and the other taxpayers on whose behalf also your orators sue, being in said township No. 14 north, of

range No. 9, has, without any lawful authority so to do, demanded payment of said so-called "township bond tax," so unlawfully charged against the property aforesaid; and he, the said defendant, refuses to receive and accept the State, county, school, and other taxes, lawfully imposed on said property of your orators, and the other taxpayers on whose behalf they sue, although they are willing, ready, and offer to pay the whole of such lawful taxes, refusing only to pay said pretended and so-called "township bond tax;" but said collector alleges that he must have the whole of each and every tax charged against each and every piece of real estate or lot of personal property mentioned on his said tax-books; that he will not receive any, but treat your orators and the other taxpayers of said township on whose behalf your orators sue as delinquents, and threatens to proceed to distrain your orators' personal property for the so-called "township bond tax" hereon assessed, and to sell such personal property therefor, and he also threatens
29 to obtain judgment against the real estate of your orators, and subject the same to sale to enforce the payment of said so-called "township bond tax," thus threatening to involve your orators in divers and a great multiplicity of suits, or to compel them to submit to great loss, injury and irreparable damages, and to cast clouds upon your orators' land titles, and thus to cause injury and damage to your orators and the other taxpayers of said township, on whose behalf your orators sue.

And your orators further state unto your honor that said Samuel M. Martin, as such county clerk, threatens and gives out in his speeches that he will again, during the year 1876, extend and charge the said so-called "township bond tax," for the year 1876, against the taxable property in said township No. 14 north, of range No. 9 west, and so to from year to year, until the end of his term of office as such county clerk, and in this way to harrass, injure, and vex, and oppress your orators and other taxpayers on whose behalf they sue.

And your orators further state unto your honor that said so-called "township bonds" so issued as aforesaid, as so delivered to said Illinois Farmers' Railroad Company as aforesaid, as your orators are
30 informed, have been disposed of by said Illinois Farmers' Railroad Company to other persons, and said company claims to have parted with all right and title to said so called "township bonds" to persons to your orators unknown, and your orators make said holders or owners of said so-called "township bonds" of said township, numbered fourteen (14) north, of range numbered nine (9) west, in Morgan County, State of Illinois, defendants to this your orators' bill of complaint, by the name and description of "the unknown owners of thirty-two one thousand dollar bonds, issued by the trustees of schools of township No. 14 north, of range No. 9 west, in Morgan County, State of Illinois, dated October 1st, 1870, and due October 1st, 1890, bearing interest at the rate of ten per cent. per annum."

And your orators further state unto your honor that the system of township organization did not during the year 1870, and does not now exist, and never has been in force in the county of Morgan and State of Illinois; and that the board of trustees of schools of said township No. 14 north, of range No. 9 west of the third principal meridian, by whom said pretended bonds were issued, had no power to contract any debt in respect to building a railroad, or any other highway, in said township or elsewhere.

31 And your orators charge that said supposed and so-called bonds are null and void, of all which said Farmers' Railroad Company

and the persons to whom they transferred said *said* so-called and the present holders *and the present holders* thereof at the time had notice; and your orators state and charge that no taxes can in manner be levied upon, or assessed, or charged against the property of your orators in said township, or upon the property of the other taxpayers of said township, to pay the interest or the principal of said so-called bonds, and so they charge that the levy of the said so-called "township bond tax" is wholly unauthorized by law, and that said attempt to impose and collect said so-called "township bond tax" by said county clerk and said sheriff and ex-o licio collector are a fraud upon the rights of your orators, and tend to the injury, damage, vexation, and oppression of your orators sueing as aforesaid; and so your orators had well hoped that upon request and remonstrance from them and on their behalf said defendants, as such clerk and collector, would have desisted and refrained from all further attempts to enforce the collection of said sums of money from your orators and the tax payers on behalf of whom they sue as aforesaid; but so it is, may it please your honor, the said defendants,

32 combining and confederating together to injure your orators, set up and pretended that said supposed bonds were authorized by the provisions of the charter and the amended charter of the Illinois Farmers' Railroad Company, as the same was adopted by the general assembly of the State of Illinois, and approved on the 20 day of April, A. D. 1869, and that the registration of said bonds and the levy of said so-called taxes so on said collector's books charged as aforesaid, and the collection of said so-called taxes, are all authorized by the act of the general assembly, entitled "An act to fund and provide for paying the railroad debts of counties, townships, cities and towns," in force April 16, 1869, and that your orators and the taxpayers for whom they sue, and who join them in this suit as aforesaid, are estopped to deny the right of said defendants to collect said so called tax, and to enforce the payment of said taxes by the same means that other taxes on said tax-books charged may be enforced, because, as they assert and pretend, that an election was held in said township, and a majority of the voters voting at such election voted in favor of the making of subscription to the capital stock of said railroad company, and that said bonds have been issued and have gone into the hands of innocent parties who are now the holders of said paper so issued as aforesaid. But your

33 orators deny each and every of said pretenses, and say they furnish no excuse to said defendants for the wrongs and injuries they are about inflicting upon your orators, and the other tax-payers of said township, on behalf of whom they sue as aforesaid. Because your orators say and charge the fact to be that so much and such parts of said charter and amended charter of the said Illinois Farmers' Railroad Company as relate to the contracting of indebtedness to build or aid in building any railroad, or to levy taxes to pay such indebtedness when so attempted to be created by the trustees of schools of said township, is and are unconstitutional and void, and that the act of the general assembly of the State of Illinois, approved April 16th, 1869, does not authorize the registration of bonds issued by the trustees of schools of townships, and that said act does not authorize the auditor of public accounts to register such bonds, nor to certify to nor direct the clerk of the county court of Morgan, or any other county, to extend taxes to pay the interest or principal of such bonds.

And your orators further state the fact to be that the pretense that said bonds were authorized to be issued by a vote of the said township s untrue as insisted upon by said defendants; that while there was a

vote had, such vote was procured by the false representations of
34 said Illinois Farmers' Railroad Company, by their agents and officers, in this: that it was, by said company, pretended for the mere purpose of defrauding the voters of said township that it was their purpose to build the Illinois Farmers' Railroad from Jacksonville, Illinois, by the way of the village of Franklin, in said county; thence southwardly in said county, under the charter of the Illinois Farmers' Railroad Company, to Scottville, in Macoupin County, Illinois; thence via Barr's Store, in Macoupin County, southwardly far enough to secure direct railroad communication between Franklin, Morgan County, and State of Illinois, and Saint Louis, in the State of Missouri, and that the said Illinois Farmers' Railroad Company would issue to said township 320 shares of its capital stock of one hundred dollars each before receiving such bonds so to be issued to aid in building said railroad company; and your orators charge the fact to be that said railroad company, nor any of its agents or officers, nor person for them or on their behalf, did or would or have built said Illinois Farmers' Railroad through said township No. 14 north, of range No. 9 west, in Morgan County, Illinois, nor southwardly to said town of Scottville, in Macoupin County, and thence southwardly at all, but have wholly neglected and refused so to do, and only made such promises to secure said bonds
to aid in building a part of the Jacksonville, Northwestern, and
35 Southeastern Railroad, and did not, as your orator now believes, ever have any intention of building the Illinois Farmers' Railroad; that said Illinois Farmers' Railroad Company have long since ceased to have anything to do with the said railroad which was pretended to be in process of building when said pretended bonds were obtained by said railroad company. And that soon after said line of railroad was built from Jacksonville to Franklin, and which was to that point built under the name of both above-mentioned railroad companies, said Farmers' Railroad Company, and said Jacksonville and Southeastern Railroad Company were consolidated (up to that time said railroad companies had had the same man for president) into what since has been called the Jacksonville, Northwestern and Southeastern Railroad Company, and by such consolidation said last-mentioned railroad company succeeded to the entire control of said railroad so far as it was built, and is no longer talked of as the Illinois Farmers' Railroad; and said Illinois Farmers' Railroad has, as your orators are informed and believe, and charge the fact to be, never delivered any stock to said township, and in fact now has none to deliver, and, if it had, the said company has no property left to give any value to such stock, having, by such consolidation, wholly lost all interest in said piece of railroad, so far as
36 it was built; wherefore all consideration upon which, and for which said people voted in favor of said pretended bonds, has wholly failed.

And your orators charge that the people living in such township gave to the builders of said piece of railroad divers large sums of money, in cash and in bonds, and they did not deserve to be so cruelly deceived and defrauded as they were by said Illinois Farmers' Railroad Company.

And your orators charge that the pretense that the said bonds are owned by innocent holders is unfounded in law; that there was no law under which their issuance was authorized, and no law under which taxes could be levied for their payment, and of that all persons dealing with said paper were bound to take notice; and so your orators say that they are not estopped to deny the legality and validity of said so-called

bonds, nor to resist the unjust, unauthorized, and illegal and *in*oppressive imposition called "township bond tax," so wrongfully assessed, levied, and charged against their property, as aforesaid, for the payment of the interest on said pretended township bonds, so issued as aforesaid. And yet, notwithstanding said bonds are void and said taxes are illegal and unjust, as aforesaid, still said defendant, Irvin Dunlap, as such sheriff and ex-officio collector of taxes, persists in threatening to enforce the collection of said illegal imposition so charged against the property of your orator, and those on whose behalf they
37 sue, as hereinbefore mentioned and set forth, and will, if permitted to proceed, despoil your orators and the other tax-payers of said township, on whose behalf they also sue as aforesaid, of their money, or cause to be beclouded the titles of your orators and said tax-payers to their lands, and will seize, sell, and waste your orators' personal property, to their great and irreparable injury, and will thereby cause your orators to in and compel them to resort to a multiplicity of suits to defend their property from spoliation; all of which several acc:ings and doings of said defendants are contrary to equity and good conscience, and for as much as your orators and the other tax-payers on whose behalf your orators sue, and whose property and names and the amount of taxes claimed from them respectively are hereinabove specifically mentioned, are without effectual remedy at law, they pray the interposition of this honorable court, and may the said Irvin Dunlap, as such sheriff and ex-officio collector of taxes in and for the county of Morgan and State of Illinois, and the said Samuel M. Martin, as county clerk in and for the county of Morgan and State of Illinois, and the unknown owners of all township bonds issued by the school trustees of township No. 14 north, of range No. 9, in Morgan County, State of Illinois, be made defendants to this your orators' bill of complaint, and may it please your honor to grant unto your
38 orators the people's writ of injunction issuing out of this court under the seal thereof, directed, &c., commanding and enjoining the said defendant, Irvin Dunlap, as such sheriff and ex-officio collector of taxes in and for the county of Morgan, and State of Illinois, for the year A. D. 1875, and his deputies, servants, and attorneys, and his successors in office, to refrain and at once wholly desist from the collection of any part of the sums of money charged against the real and personal property of your orators and the other tax-payers of township No. 14 north, of range No. 9 west, in Morgan County, State of Illinois, hereinbefore mentioned and described, and on said collector's book charged against said property as "township bond tax," and that they refrain from all further efforts to collect said so-called "township bond tax" from your orator, all other of the tax-payers hereinbefore mentioned, and commanding and strictly enjoining the said Samuel M. Martin as such county clerk of the county court of Morgan County, State of Illinois, to refrain and at once and forever desist from doing any act to aid, favor, or facilitate the collection of said so-called "township bond tax," so on said collector's books charged against the property therein and hereinabove mentioned and described. And that the said Samuel M. Martin,
39 as such county clerk of Morgan County, Illinois, his deputies and servants and his successors in office, wholly and forever desist and *res*train from extending or charging or assessing any sums of money as "township bond tax," or otherwise, as tax to pay the interest on said so-called township bonds of township No. 14 north, of range No. 9 west, in Morgan County, Illinois, or the principal of said so-called bonds, against the property hereinabove mentioned.

And may it please your honor to grant unto your orators the people's writ of subpœna, issuing out of this court against said defendants, returnable to the May term, A. D. 1876, of this honorable court, and may the said defendants be required to answer this, your orator's bill of complaint (but without oath, their oaths being waived according to statute in such cases made and provided), fully and particularly as if the same were here again repeated, and they particularly interrogated thereto, and upon *of* final hearing of this cause, may it please your honor to make such injunction against said defendants as such collector and such county clerk of Morgan County and their successors in office perpetual. And may it please your honor to declare said so-called township bonds void, and such other and further relief general and special unto your orators grant as the nature of their case may require or unto equity may belong.

40 JOHN J. RINAKER,
Solicitor for Complainant.

STATE OF ILLINOIS,
Morgan County, ss:

of lawful age, being sworn in due form of law, on his oath says that the matters stated in the above bill are true as therein stated when stated on knowledge of complainants, and so far as stated on information they believe the same to be true as stated and set forth in above and foregoing bill.

E. M. REES.

Subscribed and sworn to before me this 11th day of March, A. D. 1876, by E. M. Reese.

JOSEPH W. CALDWELL, *Clerk.*

Master's order for injunction.

In Morgan circuit court of the May term, A. D. 1876.

STATE OF ILLINOIS,
Morgan County, ss:

WILLIAM C. CLARK, THOMAS C. BROWN, Hardin G. Keplinger, Jeremiah Cox, Josiah A. Barrows, Arthur Harmon, Elijah M. Rees, and William L. Ransdall, who sue on behalf of themselves and of other tax-payers mentioned in bill,	
vs.	In chancery. Bill for injunction and relief.
IRVIN DUNLAP, SHERIFF AND EX-OFFICIO collector of taxes of Morgan County,	
41 State of Illinois, Samuel M. Martin, county clerk of Morgan County, State of Illinois, and the unknown owners of township bond of township No. 14 north, of range No. 9 west, in Morgan County.	

The judge of the said circuit court being absent from the county, and the above bill being presented to the undersigned master in chancery of said county, notice having been previously given of the intention to apply for this injunction, and I having examined the above bill and being fully satisfied of and concerning the premises do therefore order the clerk of said circuit court to issue the writ of injunction as prayed

in said bill upon complainant entering into bond of $1,000.00 an injunction bond, conditioned according to law, to defendants, with Abraham C. Woods, as security.

Witness my hand and seal this 15th March, A. D. 1876.

[SEAL] HENRY STRYKER, JR.,
Master in Chancery, M. C.

And afterwards, and to wit, on the 21st day of March, A. D. 1876, a certain injunction bond was filed in the office of the clerk of said circuit court, in the words and figures following, to wit:

Injunction bond.

Know all men by these presents, that we, Wm. C. Clark, Arthur Harmon, Tho's C. Brown, Jerry Cox, H. G. Keplinger, J. A. Barrows,
42 E. M. Rees & Wm. L. Ransdall, as principal, & A. C. Woods as security, of the county of Morgan and State of Illinois, are held and firmly bound unto Irvin Dunlap, sheriff, & Samuel M. Martin, of Morgan County and State aforesaid, in the sum of one thousand dollars to be paid to the said Irvin Dunlap & S. M. Martin, executors, administrators, or assigns, for which payment, well and truly to be made, we bind ourselves, jointly and severally, and our respective heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated this day of , A. D. 1876.

Whereas the above bounden Wm. C. Clark et al. have filed their bill of complaint in the circuit of the eighteenth judicial circuit, in the County of Morgan and State of Illinois, against the above named Irvin Dunlap, S. M. Martin, et al., praying, among other things, for an injunction to restrain the said Irvin Dunlap, as sheriff, from collecting or attempting to collect certain taxes for the , 1875, mentioned and described in the bill filed herewith, and also to restrain the said Samuel M. Martin, as county clerk of said Morgan County, from in any manner aiding in the collection of the aforesaid taxes. And also to restrain the said Samuel M. Martin, as such county clerk, and his successors
43 in office, from hereafter extending any township bond tax to pay the principal or interest of certain bonds described in said bill against the property described in said bill herewith filed; and whereas Henry Stryker, jr., the master in chancery of said court has allowed an injunction for that purpose, according to the prayer of said bill, upon said complainants' giving bond and security as provided by law and as required by the order of said master granting said injunction:

Now, therefore, the condition of the above obligation is such, that if the above bounden Wm. C. Clark et al., their executors or administrators, or any of them, shall and do well and truly pay or cause to be paid to the said Irvin Dunlap & S. L. Martin, his executors, administrators, or assigns, all such costs and damages as shall be awarded against the said complainants in case the said injunction shall be dissolved, and also , then the above obligation to be void; otherwise to be and remain in full force and virtue.

WM. C. CLARK. [SEAL.]
H. G. KEPLINGER. [SEAL.]
THOS. C. BROWN. [SEAL.]
ARTHUR HARMON. [SEAL.]
E. M. REES. [SEAL.]
JERRY COX. [SEAL.]
J. A. BARROWS. [SEAL.]
W. L. RANSDALL. [SEAL.]
A. C. WOODS. [SEAL.]

44 And afterwards, to wit, on the 3rd day of July, 1877, a certain stipulation was filed in the office of the clerk of said court, in the words and figures following, to wit:

Stipulation.

STATE OF ILLINOIS,
Morgan County, ss:

In the circuit court of said county.

WILLIAM C. CLARK, ARTHUR HARMON, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall, and others, tax-payers of township No. 14 north, of range 9 west, in the county of Morgan and State of Illinois,

against

IRVIN DUNLAP, SHERIFF AND EX-OFFICIO collector of taxes of Morgan County, State of Illinois, and Samuel M. Martin, clerk of the county court of Morgan County, State of Illinois, and the unknown owners of thirty-two one thousand dollar bonds issued by the trustees of schools in township 14 north, of range nine west, in Morgan County.

45 This cause having been removed to the circuit court of the United States, we agree that *upon* the bill is copied the clerk shall not copy the writ of injunction, but instead thereof state these words: "Upon the filing of said bill a writ of injunction was , according to the prayer of the bill and order of the master in chancery of Morgan County."

JOHN I. RINAKER,
Attorney for Complainants.
WM. THOMAS,
Attorney for Bondholders.

And afterwards, and to wit, on the 21st day of March, A. D. 1876, there was issued out of the office of the clerk of said court a certain writ of summons, in the words and figures following, to wit:

Summons.

STATE OF ILLINOIS,
Morgan County, ss:

The people of the State of Illinois to the sheriff of said county, greeting:

We command you to summon Irvin Dunlap and Samuel M. Martin and the unknown owners of all township bonds issued by the school trustees of township No. 14 north, of range No. 9, in Morgan County, State of Illinois, if they shall be found in your county, personally to be and appear before the circuit court of said county on the first day

46 of the next term thereof, to be holden at the court-house in the city of Jacksonville, in said Morgan County, on the second day of May, A. D. 1876, to answer unto a bill in chancery this day filed in our said court against them by William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall, et al.

And have you then and there this writ, with an endorsement thereon in what manner you shall have executed the same.

Witness Joseph W. Caldwell, clerk of said court, and the seal thereof, at his office in Jacksonville, in said Morgan County, this 21st day of March, 1876.

[SEAL.] JOS. W. CALDWELL, *Clerk.*

Which said last-mentioned writ was returned and filed in said court on the 28th day of March, A. D. 1876, with an endorsement thereon in words and figures following, to wit:

Return of service of summons.

STATE OF ILLINOIS,
Morgan County, ss:

I have duly served the within writ by reading and delivering a true copy of the same to each of the within-named: Irvin Dunlap, Samuel M. Martin, the unknown owners of township bonds issued by
47 school trustees of township 14, range 9 W. of 3rd P. M., not found in my county. March 27th, A. D. 1876.

THEODORE ALLEN,
Coroner M. C.

And afterwards and, to wit, on the 7th day of August, A. D. 1876, there was filed in the office of the clerk of said court a certain affidavit in the words and figures following, to wit:

Affidavit.

In Morgan County circuit court, of the August term. A. D. 1876. In chancery.

WILLIAM CLARK, ARTHUR HARMON, JEREMIAH COX, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, Wm. L. Ransdall, complainants, *vs.* IRVIN DUNLAP, SHERIFF OF MORGAN COUNTY, State of Illinois, and ex-officio collector of taxes; Samuel M. Martin, county clerk of Morgan County, State of Illinois; the unknown owners of 32 one-thousand dollar bonds issued by the trustees of schools of township No. 14 north, of range 9 west, in Morgan County, State of Illinois, date Oct. 1st, 1870, defendants.	Bill for injunction & relief.

Hardin G. Keplinger, being sworn in due form of law, on his oath states the place of the residence of said unknown owners of said

48 bonds above mentioned, and who are made defendants to said bill in this cause, cannot upon diligent inquiry *cannot* be found, and their residence is unknown to affiant, who is one of said complainants in said bill, and therefore he asks that they be notified by publication as required by statute in such case made and provided. And further says not.

H. G. KEPLINGER.

Subscribed and sworn to by H. G. Keplinger this 7th August, A. D. 1876.

JAS. H. CALDWELL, *Clerk.*

And afterwards and, to wit, on the 10th day of May, A. D. 1876, being one of the days of the regular May term, A. D. 1876, of said court, the same being then duly organized for the transaction of business, certain proceedings were had and entered of record, in the words and figures following, to wit:

Motion to dissolve.

WILLIAM C. CLARK, ARTHUR HARMON, THOMAS C. BROWN, JEREMIAH COX, HARDIN G. KEPLINGER, JOSIAH A. BARROWS, ELIJAH M. REES, and WM. L. RANSDALL

vs.

IRVIN DUNLAP, SAMUEL M. MARTIN, AND THE unknown owners of all township bonds issued by the school trustees of township No. 14
49 north, of range No. 9, in Morgan County, State of Illinois.

The defendants, Dunlap & Martin, as sheriff and clerk, by W. Thomas and W. Brown, their solicitors, come into court and move the court to dissolve the injunction issued herein for the reasons following:

First. The bill is so interlined in several parts thereof that it cannot be read or copied.

Second. The railroad company, the payee of the bonds referred to and described in the bill, is not made a party.

Third. The injunction bond is not conditioned as required by law. It contains no condition for the payment of the money enjoined, in case the injunction is dissolved.

Fourth. The bond is made to Irwin Dunlap and S. M. Martin, executors, administrators, and assigns, whereas it should have been made to the bondholders upon whose rights the suit is intended to operate, or to the railroad company, as payee.

Fifth. The penalty of the bond is insufficient; it should have been for double the amount enjoined, or such amount as would cover the said amount enjoined.

THOMAS & BROWN.

JACKSONVILLE, 9 *May*, 1876.

50 And afterwards and, to wit, on the 9th day of August, A. D. 1876, being one of the days of the regular August term, A. D. 1876, of said circuit court, the same being then duly organized for the transaction of business, certain proceedings were had and entered of record in the words and figures following, to wit:

Order.

WILLIAM C. CLARK, ARTHUR HARMON, THOMAS C. BROWN, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, William L. Ransdall

vs.

IRVIN DUNLAP AND SAMUEL M. MARTIN, AND the unknown owners of all township bonds issued by the school trustees of township No. 14 north, of range No. 9, in Morgan County, State of Illinois.

Now, on this day this cause coming on to be heard upon the motion entered at the last term of this court to dissolve the injunction herein, and the court having considered the motion, orders that said complainants have leave to file a supplemental injunction bond herein, payable to all the defendants herein, in the penal sum of $400, with Abram C. Woods as security, by Wednesday next, without prejudice to the injunction, and said motion to dismiss is overruled.

51 And afterwards, and, to wit, on the 18th day of August, A. D. 1876, there was filed in the office of the clerk of said court a certain appeal bond in the words and figures following, to wit:

Injunction bond.

Know all men by these presents, that we, William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, H. G. Keplinger, Josiah A. Barrows, E. M. Rees, and William M. Ransdall, and A. C. Woods, of the county of Morgan in the State of Illinois, are held and firmly bound unto Irvin Dunlap, sheriff, and ex-officio collector of taxes of Morgan County, State of Illinois, Samuel M. Martin, county clerk of Morgan County, State of Illinois, and the unknown owners of township bonds of township No. 14 north, of range No. 9 west, in Morgan County, Illinois, in the sum of four thousand dollars, to be paid to the said Irvin Dunlap, sheriff, &c., Samuel M. Martin, clerk, &c., and the unknown owners of township bonds of township No. 14 north, of range No. 9 west, in Morgan County, Illinois, their successors or assigns, for which payment, well and truly to be made, we bind ourselves jointly, severally, and our respective heirs, executors and administrators, firmly by these presents, sealed with our seals and dated this 5th day of August, A. D. 1876.

52 Whereas the above bounden William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall have filed their bill of complaint in the circuit court of 18th judicial circuit, in the county of Morgan and State of Illinois, against the above named Irvin Dunlap, sheriff, &c., & S. M. Martin, county clerk, &c., and the unknown owners of township bonds of township No. 14 north, of range No. 9 west, in Morgan County, Illinois, praying among other things for an injunction to restrain the said Irvin Dunlap as sheriff from collecting or attempt' certain taxes for the year 1875, mentioned and described in the bill filed herein, and also to restrain the said Samuel M. Martin as such county clerk and his successors in office from hereafter extending any township bond tax as tax to pay the principal or interest of certain

bonds described in said bill against the property described in said bill filed in this cause.

And whereas Henry Stryker, jr., master in chancery of said court, has allowed an injunction for that purpose according to the prayer of said bill, upon the said complainants giving bond and security as provided by law, and as required by the order of the said master
53 granting said injunction.

And whereas it has been ordered by the Hon. Cyrus Epler, judge of said court, that a new bond filed in this cause, in the penal sum of four thousand dollars:

Now, therefore, the condition of the above and foregoing obligation is such, that if the said above bounden obligors, their executors or administrators, or any of them, shall and do well and truly pay, or cause to be paid to the said Irvin Dunlap, sheriff, &c., & S. M. Martin, clerk, &c., and the unknown owners of township bonds of township No. 14 north, of range No. 9 west, in Morgan County, Illinois, being the bonds referred to in the bill herein, or their successors or assigns, all such damages and costs as shall be awarded against the complainants in case the said injunction shall be dissolved, then the above obligation to be void, otherwise to be and remain in full force and virtue.

H. G. KEPLINGER.	[SEAL.]
ARTHUR HARMON.	[SEAL.]
JERRY COX.	[SEAL.]
THOS. C. BROWN.	[SEAL.]
JOSIAH A. BARROWS.	[SEAL.]
E. M. REES.	[SEAL.]
W. L. RANSDALL.	[SEAL.]
WM. C. CLARK.	[SEAL.]
A. C. WOODS.	[SEAL.]

54 And afterwards, and, to wit, on the 15th day of November, A. D. 1877, being one of the days of the regular November term, A. D. 1876, of said court, the same being duly organized for the transaction of business, certain proceedings were had and entered of record, in the words and figures following, to wit:

To execute new bond.

WILLIAM C. CLARK, ARTHUR HARMON, THOMAS C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall

vs.

IRVIN DUNLAP AND SAMUEL M. MARTIN, AND the unknown owners of all township bonds issued by the school trustees of township No. 14 north, of range No. 9, in Morgan County, State of Illinois.

Now come the defendants Dunlap and Martin and move the court to dissolve the injunction in this cause, because no such injunction bond has been executed and filed as that required by the master in chancery, the injunction, and the court in continuing it, or that the parties be required forthwith to execute and file such a bond as that required as aforesaid, and this cause is continued.

And afterwards, and, to wit, on the 3rd day of February, A. D.
55 1877, being one of the days of the special January term, A. D. 1877, of said court, and the same being duly organized for the transaction of business, certain proceedings were had and entered of record in the words and figures following, to wit:

Order to file new bond.

WILLIAM C. CLARK, ARTHUR HARMON, THOMAS C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall, of township number fourteen north, of range nine west, in the county of Morgan, *against* IRVIN DUNLAP, SHERIFF OF MORGAN COUNTY and ex-officio collector of taxes, and Samuel M. Martin, clerk of the county court of Morgan, of Morgan County, Illinois, and the unknown owners of thirty-two one thousand dollar bonds, issued by the trustees of schools of township 14 north, of range 9 west, in Morgan County, State of Illinois, dated October 1st, 1870.	In chancery.

This day came again the parties by their solicitor', Mr. Rinaker for the complainants, and Mr. Thomas for defendants Irvin Dunlap and Samuel M. Martin, and the motion submitted at the last term of the
56 court in behalf of said Dunlap & Martin, and continued to the present term, for an order requiring the complainants to execute a sufficient injunction bond, or in case of their failure to do so, that the injunction be dissolved, being heard and considered, the court orders that the said complainants, with the security heretofore given, or with such other security as the master in chancery and clerk of this court may approve, do, within thirty days from the service of a copy of this order on the solicitor of complainants, execute an injunction bond to the defendants Irvin Dunlap, as sheriff and collector of taxes for the county of Morgan, in the penalty of $4,000, conditioned for the payment of the money enjoined in case the injunction is dissolved. And the court further orders that in case the complainants fail to execute such bond, and file the same with the clerk of this court within said thirty days, that the injunction be and stand dissolved, and said sheriff and collector may thereupon proceed to collect the taxes enjoined as though no injunction had been issued.

And afterwards, and to wit, on the 24th day of February, A. D. 1877, there was filed in the office of the clerk of said court a certain appeal bond in the words and figures following, to wit:

Injunction bond.

Know all men by these presents that we, William C. Clark,
57 Arthur Harmon, Josiah A. Barrows, Thomas C. Brown, Jeremiah Cox, Hardin J. Keplinger, Elijah M. Rees, William M. Ransdall, of township numbered 14 north, of range No. nine (9) west of the 3rd principal meridian, Morgan County, of the State of Illinois, as principal, and Abram C. Woods as security, are held and firmly bound unto Irvin Dunlap, as sheriff and ex-officio collector of taxes in and for the county of Morgan and State of Illinois, and Samuel M. Martin as

county clerk of the county of Morgan and State of Illinois, and the unknown owners of 32 one thousand dollar bonds, issued by the trustees of schools of township No. 14 north, of range No. 9 west, in the county and State aforesaid, and to the successors in office of said Dunlap and Martin for the use of such unknown owners of such bonds, in the penal sum of four thousand dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators, jointly, severally, and firmly by these presents.

The condition of the above and foregoing obligation is such that whereas the said principal suing on their own behalf and also on behalf of other tax-payers of said township numbered fourteen north, of range
No. 9 west, in Morgan County, Illinois, have filed their bill in
58 chancery, in the circuit court in and for the county of Morgan and State of Illinois, against Irvin Dunlap as sheriff and ex-officio collector of taxes in and for the county of Morgan and State of Illinois, and Samuel M. Martin as county clerk of said county and State aforesaid, and the unknown owners of 32 one thousand dollar bonds, issued by the trustees of schools of township No. 14 north, of range No. 9 west, in the county of Morgan, State of Illinois, praying, among other things, that the said Dunlap as such sheriff and collector of taxes in and for the county and State aforesaid, and his successors in office, be enjoined and restrained from collecting from said parties, complainants in said bill, and the persons on whose behalf they sue, the taxes assessed and charged against them and their property, situate and being in said township No 14 north, of range No. 9 west, &c., aforesaid, as township bond tax, as the same stand charged on the tax-books or tax-lists for the year A. D. 1875, and also that said Samuel M. Martin as county clerk of said Morgan County, State of Illinois, and his successors in office, be enjoined and restrained from again extending and
charging against the property of the said complainants and of
59 those on whose behalf they sue as aforesaid such "railroad bond tax" in said bill mentioned and described, upon which bill the said circuit court has granted an injunction according to the prayer of said bill, which writ of injunction was accordingly issued by the clerk of said circuit court upon the said complainants having executed injunction . And the said defendants, Dunlap and Martin, having come into court and filed their objection to the condition of the said injunction bond heretofore filed in this cause; and the said court having heard said objections and ordered that the said complainants, with the security heretofore given in this case, or with such security as the clerk of said court or the master in chancery may approve within 30 days from the service of a copy of this order on the solicitor of complainants, execute an injunction bond to the said defendants Irvin Dunlap as sheriff and ex officio collector in and for the county of Morgan and State of Illinois, in the penal sum of $4,000, conditioned for the payment of money enjoined as such taxes as aforesaid in case the injunction is dissolved, and for the payment of the costs thereupon to be adjudged against said complainants.

Now, therefore, if the said complainants shall prosecute their said
suit with effect, or in case said injunction shall be dissolved, shall
60 pay to the said defendant, Irvin Dunlap, as such sheriff and collector of taxes, for the use of the owners of said bonds and those interested in this condition, the amount of the money so enjoined as aforesaid and the costs of the said suit which may be adjudged against them on the dissolution of said injunction, then this obligation shall be void, otherwise to be remain in full force and effect.

In witness whereof we have hereto subscribed our names and affixed our seals this day of February, A. D. 1877.

WM. C. CLARK.	[SEAL.]
E. M. REES.	[SEAL.]
H. G. KEPLINGER.	[SEAL.]
J. A. BARROWS.	[SEAL.]
THOS. C. BROWN,	[SEAL.]
W. L. RANSDALL.	[SEAL.]
ARTHUR HARMON.	[SEAL.]
JERRY COX.	[SEAL.]
A. C. WOODS, *Security.*	[SEAL.]

And afterwards, and to wit, on the 28th day of May, A. D. 1877, being one of the days of the regular May term, A. D. 1877, of said circuit court, the same being then duly organized and sitting for the transaction of business, certain proceedings were had and entered of record in the words and figures following, to wit:

Motion to dissolve.

THOMAS C. BROWN, ARTHUR HARMON, William C. Clark, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William M. Ransdall, of township 14 north, of range 9 west, in Morgan County, State of Illinois,

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against

IRVIN DUNLAP SHERIFF OF MORGAN COUNTY and ex officio collector of taxes, Samuel M. Martin, clerk of the county court of Morgan County, Illinois, and the unknown owners of 32 bonds, issued by the trustees of schools of township 14 north, of range 9 west, in Morgan County, State of Illinois.

The defendants, by W. Thomas, move the court to dissolve the injunc' issued in the above entitled cause, so far as it operates upon all the property and persons named in the writ of injunction, except in relation to the above named complainants and the property alleged to be owned by them, for the reasons that said complainants are the only parties to this suit against whom any decree can be entered in this cause.

And afterwards, and to wit, on the 4th day of June, A. D. 1877, there was filed in the office of the clerk of said court a certain notice to non-resident defendants, with the certificate of publication attached, in the words and figures, following, to wit:

62 *Notice to non-resident def'ts.*

STATE OF ILLINOIS,
Morgan County, ss:

In circuit court. May term, A. D. 1877.

WILLIAM C. CLARK, ARTHUR HARMON, THOMAS C. BROWN, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Reed, and William L. Ransdall, of township No. 14 north, of range No. 9 west, of the third principal meridian, in Morgan County, State of Illinois, who sue on behalf of themselves and on behalf of other tax-payers of said county, complainants,

v.

IRVIN DUNLAP, EX-OFFICIO COLLECTOR OF taxes in and for the county of Morgan and State of Illinois, and Samuel M. Martin, county clerk of Morgan County, State of Illinois, and the unknown owners of 32 one thousand dollar township bonds, issued by the trustees of schools of township No. 14 north, of range No. 9 west, of the third principal meridian, in Morgan County, State of Illinois, dated Oct. 1st, 1870, defendants.

In chancery. Bill for relief and injunction.

Affidavit that upon due inquiry the names of the owners of the bonds issued by the trustees of schools of township No. 14 north, of range No. 9 west, of the third principal meridian in Morgan County, State of Illi-
63 nois, are unknown, and that the persons who own said bonds are unknown, having been filed in the office of the clerk of said court, notice is hereby given to the said unknown owners of the said bonds issued by the trustees of schools of township No. 14 north, of range No. 9 west, of the 3rd principal meridian in Morgan County, State of Illinois, that the above named complainants in the above entitled cause have filed their bill in said court on the chancery side of said Morgan circuit court, and that summons has been issued out of said court on said bill against the defendants in said suit, and that unless you, the said unknown owners of said township bonds issued by the said trustees of schools of township No. 14 north, of range No. 9 west, of the third principal meridian in the county and State aforesaid, shall be and appear in said circuit court in and for the county of Morgan, State of Illinois, to be holden in the city of Jacksonville, in the county and State aforesaid, on the second Monday of May, A. D. 1877, on the first day of said term *of said term* of said court and plead, answer or demur to the bill of complaint in said cause filed, the said bill will as to you, said defendants,
64 and each and every of you, be taken as confessed and true, and a decree will be entered in said cause according to the prayer of said bill.

In witness whereof I have set my hand this 3rd day of January, A. D. 1877.

J. N. MARSH, *Clerk.*

Certificate of publication.

STATE OF ILLINOIS,
Morgan County, ss:

We, the undersigned, publishers of the Jacksonville Journal, a public newspaper published and printed in the city of Jacksonville, in the county and State aforesaid, do hereby certify that the notice of non-residence, &c., a copy of which is hereunto attached, was published in said paper 5 times for the period of 4 successive weeks; that the publication of said notice as aforesaid was made in the paper dated the 3rd day of January, 1877, and that the last publication of the same was made in the paper dated the 31st day of Jan., 1877.

Witness our hands and seal this 4th day of June, 1877.

SIMMONS & EAMES. [SEAL.]

And, to wit, on the 4th day of June, A. D. 1877, being one of the days of the said May term, A. D. 1877, of said court, the same being then duly organized for the transaction of business, certain pro-
65 ceedings were had and entered of record in the words and figures following, to wit:

Rule to plead, answer or demur.

THOMAS C. BROWN, ARTHUR HARMON, William C. Clark, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall, of township 14 north, of range 9 west, in Morgan County, State of Illinois,

vs.

IRVIN DUNLAP, SHERIFF OF MORGAN COUNTY and ex-officio collector of taxes; Samuel M. Martin, clerk of the county court of Morgan County, Illinois, and the unknown owners of 32 one-thousand dollar bonds issued by the trustees of schools of township 14 north, of range 9 west, in Morgan County, State of Illinois.

The said complainants came, on this 4th day of June, A. D. 1877, by John I. Rinaker, their solicitor, and pray the court for a rule against the defendants in this cause requiring all of said defendants to file their plea, answer, or demurrer to the bill in this cause filed by a day to be fixed by this honorable court; and they will ever pray, &c. And said motion now coming on to be heard by the court, and the
66 said defendants also coming by their solicitor, and it appearing to the court that the said defendants, Irvin Dunlap and Samuel M. Martin have had due notice of the pendency of this suit by the service of lawful process issued out of this court in this cause against them, as appears by the return of the coroner of Morgan County, State of Illinois, to said process; and it also appearing that the unknown owners of 32 one-thousand dollar bonds, issued by the trustees of schools of township No. 14 north, of range No. 9 west, of the 3rd principal meridian in Morgan County, State of Illinois, and who by that description are made defendants to this suit, have had due notice of the pendency of this suit by the publication of a notice thereof in the Morgan

Journal, a public weekly newspaper published in the city of Jacksonville, in Morgan County, State of Illinois, for more than 4 successive weeks, and that the first publication of said notice was made on the 3rd day of January, 1877, more than 40 days next preceding the first day of the March term of this court, as appears by said notice now produced in this court, and also by the certificate of the publishers of said paper thereto attached, which notice and certificate to the publication thereof are now on file in this court among the papers in this cause.

And now, therefore, by consent of complainants and defendants, doth order, and that the said defendants file in this cause by the 18th
67 day of June instant, the same being the 6th Monday of the May term, 1877, of this court, their plea, answer or demurrer to the bill of complaint in this cause filed, and that, in default of such plea, answer or demurrer to said bill, the said bill and the matters therein alleged to be taken as to said defendants for confessed and true.

And afterwards and, to wit, on the 26th day of June, A. D. 1877, there was filed in the office of the clerk of said circuit court a certain answer in the words and figures following, to wit:

Answer.

STATE OF ILLINOIS,
Morgan County, ss:

In the circuit court of said county.

WILLIAM C. CLARK, ARTHUR HARMON, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, William M. Ransdall of township 14 north, of range 9 west, in Morgan County, State of Illinois, and others,
against
IRVIN DUNLAP, SHERIFF OF MORGAN COUNTY and ex officio collector of taxes; Samuel M. Martin, clerk of the county court of Morgan County, Illinois, and the unknown owners of 32 $1,000 bonds, issued by
68 the trustees of schools of township 14 north, of range 9 west, in Morgan County, State of Illinois.

The joint and several answers of , the said Irvin Dunlap, sheriff and collector, and Samuel M. Martin, clerk of the county court of Morgan, by William Thomas, their attorney, to the bill filed in the above-entitled cause, the said defendants say that by an act of the general assembly of the State of Illinois, entitled "An act to incorporate the *incororate the* Illinois Farmers' Railroad Company," approved 28th February, 1867, a company was incorporated, and vested with power to locate, construct, and complete, and to maintain and equip and operate a railroad with single or double track, and with such appurtenances as may be deemed necessary by the directors for the use of the same, from the town of Virginia, in Cass County, by the most eligible route to town of Duquoin, Perry County, through the towns of Scottsville, Barr's Store, Chesterfield, and Staunton, in Macoupin

County, the capital stock of the company to be five hundred thousand dollars. The act of incorporation is printed in the second volume of private laws of 1867, page 757, and is here referred to as part of this answer. That by an act passed 15 April, 1869, entitled "An act to amend an act entitled 'An act to incorporate the Illinois Farmers'
69 Railroad Company,'" it is provided that, "instead of commencing at and running from the town of Virginia, in Cass County, as provided in the second section of the act to which this act is an amendment, said road shall commence at and run from the city of Jacksonville, and run by the most eligible route, to the town of Duquoin, in Perry County, and that section twenty-five of said act be so amended as to read at Jacksonville instead of Virginia, and that the second section of said act be amended further by striking out Chesterfield as one of the points of said road and inserting Carlinville," which said amended act is here referred to as part of the answer as published in the third volume of private laws of 1869, page 306. After the passage of the amended act the company was regularly organized, and on the first of November, 1869, elected directors, and thereupon proceeded to locate and construct the said road. The county of Morgan was not under township organization. The trustees of schools, therefore, of the township 14 north, of range 9 west, proposed to subscribe stock in said corporation to the amount of four thousand dollars per mile, and that question whether or not such subscription should be made was submitted to a vote of the legal voters of said township as required by the said act of incorporation, and a large majority of said legal voters voting in favor of
70 the said subscription, the trustees of schools made the same, and executed the bonds of the township, believing it was their right and duty so to do, according to the provisions of the act aforesaid. The levying the tax, the action of the auditor, treasurer, and clerk of the county court, and sheriff of county have all been in conformity with the laws hereinbefore referred to, and the act passed 16 April, 1869, entitled "An act to fund and provide for paying the railroad debts of counties, townships, cities, and towns," and is here referred to as part of this answer as published in Revised Statutes of Illinois, at page 721 of said book.

These defendants herewith file as part of their answer a copy of one of the bonds so issued, all the bonds being alike, in the words following:

No. 29. UNITED STATES OF AMERICA. $1,000.

STATE OF ILLINOIS.

Subscription to the capital stock of the Illinois Farmers' Railroad Company.

Trustees of schools in township fourteen north, range nine west, in the county of Morgan.

Be it known that the trustees of schools in township No. fourteen north, of range No. nine west, of the third principal meridian, in the county of Morgan and State of Illinois, owe to the Illinois Farmers' Railroad Company one thousand dollars, which said sum the trus-
71 tees of schools in said township and range aforesaid, having been duly authorized by a majority of the qualified voters of said township and range at an election held for that purpose on the first day

of February, A. D. 1870, promise to pay the said Illinois Farmers' Railroad Company or bearer at the banking office of M. P. Ayers & Co., in Jacksonville, Illinois, on the first day of October, A. D. 1870, and to pay interest thereon at the banking office aforesaid at the rate of ten per centum per annum on the first day of October of each year ensuing the date hereof, upon the surrender of the annexed *amounts*, signed by S. S. McCullough, treasurer and ex officio clerk of the board of trustees of schools in said township. This obligation is issued in part payment of a subscription *of a subscription* of three hundred and forty shares, of one hundred dollars each, of the capital stock of the said Illinois Farmers' Railroad Company, made by the said trustees of schools, in the township and range aforesaid, by authority of an act of the general assembly of the State of Illinois, approved February 28, 1867, chartering the said Illinois Farmers' Railroad Company, and an act amendatory thereof, in force April 20th, 1869, and a vote of the qualified voters of said township, by authority of said several acts, at an election duly held in said township on the first day of February, 1870.

72 In testimony whereof, the president of the board of trustees of schools in the township and range aforesaid, in the county and State aforesaid, has hereunto set his hand in pursuance of the authority aforesaid, countersigned by S. C. McCullough, treasurer of said township and ex-officio clerk of said board, the seal of said board being hereto attached October 1st, 1870.

Attest:

H. REINBACH, *President.*
S. C. McCULLOUGH,
Treas. and ex-officio Clerk.

Copy of coupon.

Interest warrant No. 9 on bond No. 29.

Trustees of schools, in township 14 N., and range 9 west, of the third principal meridian, in the county of Morgan and State of Illinois, will pay to the bearer hereof, at the banking-house of M. P. Ayers & Co., in the city of Jacksonville, Illinois, on the first day of October, A. D. 1879, one hundred dollars for interest due on that day on bond No. 29, issued for subscription to the capital stock of the Illinois Farmers' Railroad Company, by order of the board of trustees of schools in township No. 14 north, of range 9 west, of the third principal meridian.

S. P. McCULLOUGH,
Treasurer & ex officio Clerk.

73 The said defendants, further answering, say that by an act of the general assembly of the State of Illinois, approved 23 February, 1867, entitled "An act to incorporate the Jacksonville Northwestern and Southeastern Railway Company," by which the said company incorporated by said act was authorized to construct, finish, maintain and operate a railroad with all necessary side tracks, turnout', switches, stations, and all necessary buildings, erections and structures, commencing at Jacksonville, in Morgan County; thence to Sandoval, in Marion County, or to any other point on the Illinois Central Railroad within ten miles of Sandoval; and thence to Shawneetown, on the Ohio River, or to any other point on said river north or south of said last-mentioned town, to be determined by said company, with one or more tracks or lines of rails"; all which will appear by reference to said act, which is



of February, A. D. 1870, promise to pay the said Illinois Farmers' Railroad Company or bearer at the banking office of M. P. Ayers & Co., in Jacksonville, Illinois, on the first day of October, A. D. 1870, and to pay interest thereon at the banking office aforesaid at the rate of ten per centum per annum on the first day of October of each year ensuing the date hereof, upon the surrender of the annexed *amounts*, signed by S. S. McCullough, treasurer and ex officio clerk of the board of trustees of schools in said township. This obligation is issued in part payment of a subscription *of a subscription* of three hundred and forty shares, of one hundred dollars each, of the capital stock of the said Illinois Farmers' Railroad Company, made by the said trustees of schools, in the township and range aforesaid, by authority of an act of the general assembly of the State of Illinois, approved February 28, 1867, chartering the said Illinois Farmers' Railroad Company, and an act amendatory thereof, in force April 20th, 1869, and a vote of the qualified voters of said township, by authority of said several acts, at an election duly held in said township on the first day of February, 1870.

72 In testimony whereof, the president of the board of trustees of schools in the township and range aforesaid, in the county and State aforesaid, has hereunto set his hand in pursuance of the authority aforesaid, countersigned by S. C. McCullough, treasurer of said township and ex officio clerk of said board, the seal of said board being hereto attached October 1st, 1870.

Attest:

H. REINBACH, *President.*
S. C. McCULLOUGH,
Treas. and ex-officio Clerk.

Copy of coupon.

Interest warrant No. 9 on bond No. 29.

Trustees of schools, in township 14 N., and range 9 west, of the third principal meridian, in the county of Morgan and State of Illinois, will pay to the bearer hereof, at the banking-house of M. P. Ayers & Co., in the city of Jacksonville, Illinois, on the first day of October, A. D. 1879, one hundred dollars for interest due on that day on bond No. 29, issued for subscription to the capital stock of the Illinois Farmers' Railroad Company, by order of the board of trustees of schools in township No. 14 north, of range 9 west, of the third principal meridian.

S. P. McCULLOUGH,
Treasurer & ex officio Clerk.

73 The said defendants, further answering, say that by an act of the general assembly of the State of Illinois, approved 23 February, 1867, entitled "An act to incorporate the Jacksonville Northwestern and Southeastern Railway Company," by which the said company incorporated by said act was authorized to construct, finish, maintain and operate a railroad with all necessary side tracks, turnout', switches, stations, and all necessary buildings, erections and structures, commencing at Jacksonville, in Morgan County; thence to Sandoval, in Marion County, or to any other point on the Illinois Central Railroad within ten miles of Sandoval; and thence to Shawneetown, on the Ohio River, or to any other point on said river north or south of said last-mentioned town, to be determined by said company, with one or more tracks or lines of rails"; all which will appear by reference to said act, which is

here referred to as part of this answer on page 709 of private laws of 1869. The corporation was regularly organized under and according to the provisions of said act of incorporation, and on the 17th February, 1870, the stockholders met at Waverly and elected the directors as provided for by the charter, and has continued to act as a corporate body ever since that date.

It will be seen by reference to the two foregoing acts of incor-
74 poration that both of the roads authorized to be located and constructed have for their beginning points a place, Jacksonville, and to run to the terminus of each the roads must run for some distance, say fifteen miles, on or over the same line. There was, therefore, an agreement that the said roads would use the same track and line to within one-half mile of Franklin, and for that distance the road should be completed by the Illinois Farmers' Railroad, which would exhaust the means of said road, the parties in interest or their representatives agreeing to a consolidation of the two roads if that could lawfully be done upon the completion of the road to within a half mile of Franklin. Northwestern and Southeastern Railway completed said road through the township to Waverly. When the road was, therefore, completed, or during the time of its being completed, the Illinois Farmers' Railroad Company sold their part of said road, including the franchises and road and personal property, to the Northwestern and Southeastern Railroad Company for a sum sufficient to pay the bonded debt.

And when the road was thus completed through the said township, the bonds executed by the trustees of schools were delivered. It was ascertained before the sale aforesaid that the Farmers' Road could not be completed; its available resources were exhausted, and addi-
75 tional means could not be procured. Subsequently, provision was made for completing and putting in operation the Northwestern and Southeastern Road as far as Mount Vernon, in Jefferson County, but by reason of the crisis in the finances of the county means could only be obtained to complete the road to the town of Virden, where its line crosses the road from Alton to Chicago, a distance of 31 miles from Jacksonville, and all further action had to be delayed for an indefinite period, with the hopes, however, that time will operate a change in the finances of the county, when the road will be completed to Mount Vernon.

These defendants, further answering in the premises, say that the complainants and all other tax-payers of said township paid the taxes assessed upon their property for the years 1871, 1872, 1873, 1874, & 1875, and thereby gave character and credit to the bonds of said township, and they should be considered as estopped from denying or contesting the validity of said bonds; that although some of the citizens of said township have been disappointed in their hopes and expectations in regard to the location and completion of the road, yet they have reason to be thankful that a road has been made through their township, offering them an outlet to the North and South for the transportation of persons and property, when, without the sale of the Farmers' Road, they could not have had any such accommodations.

76 These defendants plead the action of the trustees in holding the election and of the complainants and other taxpayers in the payment of their taxes aforesaid as a recognition of the legal obligation of the bonds, and in bar of the right to relief sought by complainants.

These defendants have no interest whatever in the matter in contro-

versy; they are the officers of the county of Morgan. And, having fully answered, pray to be dismissed with their costs.

WM. THOMAS,
Attorney, &c.

And, to wit, on the 26 day of June, A. D. 1877, a certain other answer was filed in the office of the clerk of said court in the words and figures following, to wit:

Answer of Weightman et al.

STATE OF ILLINOIS,
Morgan County, ss:

In the circuit court of said county.

William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox Hardin G. Keplinger, Josiah A. Barrows, Elijah Rees, and William L. Ransdall, of township fourteen north, of range nine west, in Morgan County, State of Illinois, and others.

77 William Weightman, of the city of Philadelphia and State of Pennsylvania, and Charles Day, of Camden, in the State of New Jersey, who are sued in the above-entitled cause by the name of the unknown owners of thirty-two one thousand dollar bonds issued by the trustees of schools of township 14 north, of range nine west, in Morgan County, State of Illinois, and who have been made defendants in said cause by order of court, by their attorney, William Thomas, come and defend, &c.; and for their joint and several answer to the bill aforesaid, say that by an act of the general assembly of the State of Illinois, entitled "An act to incorporate the Illinois Farmers' Railroad Company," approved 28th February, 1867, a company was incorporated and vested with power to locate, construct, and complete, and to maintain, equip and operate a railroad with single or double track, and with such appurtenances as may be deemed necessary for the use of the same from the town of Virginia in Cass County by the most eligible route to the town of Duquoin, Perry County, through the town of Scottsville, Barr's Store, Chesterfield, and Staunton in Macoupin County," the capital stock of the company to be five hundred thousand dollars, which act is printed in the second volume of printed laws of 1867, page 487, and is here
78 referred to as part of this answer; that by an act passed 15 April, 1869, entitled "An incorporate the Illinois Farmers' Railroad Company," it is provided that instead of commencing at and running from the town of Virginia in Cass County, as provided in the second section of the act to which this act is an amendment, said road shall commence at and run from the city of Jacksonville and run by the most eligible route to the town of Duquoin in Perry County, and that section twenty-five of said act be so amended as to read Jacksonville instead of Virginia, and that the second section act be amended further by striking out Chesterfield as one of the points of said road and inserting Carlinville, which said amended act is here referred to as part of this answer as published in the third volume of private laws of Illinois of 1869, page 306.

After the passage of this act the company was regularly organized, and on the first of November, 1869, elected directors, and thereupon proceeded to locate and construct the said road. The county of Morgan was not, nor is not, under township organization. The trustees of schools of the township 14 north, of range 9 west, through which the road passed,

proposed to subscribe stock in said company to the amount of four
79 thousand dollars per mile, through said township, and that question whether or not such a subscription should be made was submitted to a vote of the legal voters of said township as required by said act of incorporation, and a large majority of said legal voters voting in favor of said subscription, the trustees of schools made the subscription and afterwards executed the bonds of the township, believing it was their right and duty to do so, according to the provisions of the act aforesaid; the levying the tax, the action of the auditor and treasurer of the State and clerk of the county court of Morgan County, and sheriff of said county, has all been done in conformity with the laws hereinbefore referred to, and an act passed 16 April, 1869, entitled "An act to fund and provide for paying the railroad debts of counties, townships, cities, and towns," and is here referred to as part of this answer as published in the Revised Statutes of Illinois of 1874, at page 791 of said book; these defendants herewith file as part of this answer a copy one of said bonds so issued, with a copy of one of the coupons or interest warrants, all of them being of the same tenor and effect.

These defendants, further answering, in the premises, say that the complainants and all other taxpayers of the said township paid the taxes assessed and now complained of for the years 1871, 1872,
80 '73, '74, & '75, and thereby ratified and confirmed the action of the trustees of schools in the holding of the election and execution of the bonds, as herein stated, and they insist that said complainants shall be estopped from now contesting the validity of the bonds; they insist that said tax-payers after giving credit and currency to the bonds aforesaid should not be permitted to interpose a defense against payment, for reasons well known to them at the time of making said payments; and the defendants plead the action of said tax-payers in bar of *in bar of* their right now to repudiate the act of the trustees as well as the action of the legal voters in voting for the subscription.

Copy of bond and interest warrant.

No. 29.

U. S. OF AMERICA, STATE OF ILLINOIS.

Subscription to capital stock of the Illinois Farmers' Railroad Company.

Trustees of schools in township fourteen north, range nine west, in the county of Morgan.

Be it known that the trustees of schools in township No. fourteen north, of range No. nine west, of the third principal meridian, in the county of Morgan and State of Illinois, owe to the Illinois Farm-
81 ers' Railroad Company one thousand dollars, which said sum the trustees of schools in said township and range aforesaid, having been duly authorized by a majority of the qualified voters of said township and range at an election held for that purpose on the first day of February, A. D. 1870, promise to pay the said Illinois Farmers' Railroad Company or bearer at the banking office of M. P. Ayers & Co. in Jacksonville, Illinois, on the first day of October, A. D. 1890, and to pay interest thereon at the banking office aforesaid at the rate of ten per centum per annum on the first day of October of each year ensuing the date hereof upon the surrender of the annexed warrant signed by S. P. Mc-

Cullough, treasurer and ex-officio clerk of the board of trustees of schools in said township.

This obligation is issued in part payment of a subscription of three hundred dollars each of the capital stock of the Illinois Farmers' Railroad Company made by the said trustees of schools in the township and range aforesaid, by authority of an act of the general assembly of the State of Illinois, approved February 28, 1867, chartering the said Illinois Farmers' Railroad Company an act amendatory thereof in force April 20, 1869, and a vote of the qualified voters of said township by authority of said several acts at an election duly held in said township
82 on the first day of February, 1870.

In testimony whereof the president of the board of trustees of schools in the township and range aforesaid, in the county and State aforesaid, has hereunto set his hand in pursuance of the authority aforesaid, countersigned by S. P. McCullough, treasurer of said township and ex-officio clerk of said board, the seal of said board being hereto attached October 1st, 1870.

Attest:

H. REINBACH,
President.
S. P. McCULLOUGH,
Treasurer and ex-officio Clerk.

The said bonds after being so issued were regularly registered as required by the last-named act

And these defendants made the purchase of the bonds without any knowledge in fact of any reason why they should not be issued, and paid therefor one dollar for every dollar of said bonds. They are innocent purchasers for a valuable consideration, and insist that the township as a corporate body and the legal voters of said township are and should be held responsible for the payment thereof. Aside from the legal liability which they supposed existed, they had no reason
83 to fear the action of the property-holders of wealthiest townships in the State of Illinois, a State in which nul'ification, rebellion, or repudiation 'ever had a foot to stand on, and they trust that the spirit of repudiation manifested by this sect may, before the termination hereof, cease to exist, and that as the result of the second sober thought will be the payment of the bonds, interest and principal of the bonds in controversy.

The said defendants, further answering, say that by an act of the general assembly of the State of Illinois approved 23 February, 1867, entitled "An act to incorporate the Jacksonville, Northwestern and Southeastern Railway Company," the said company incorporated by said act was authorized "to locate, construct, finish, maintain, and operate railroad, with all necessary side tracks, turn-outs, suitable depots, stations, and all necessary buildings, erections, and stations, commencing at Jacksonville, in Morgan County, thence to Sandoval, in Marion County, or to any other point on the Illinois Central Railroad within ten miles of Sandoval, and thence to Shawneetown, on the Ohio River, or to any other point on said river north or south of said last-mentioned town, to be determined by said company, with one or more tracks or lines of rails," all which will appear by reference to said act, which is here referred to as part of this answer, printed on page 709 of
84 second volume of Private Laws of 1869. On the 17th February, 1870, the stockholders of said company met at Waverly, in the county of Morgan, elected directors, and became organized as a corporate body in accordance with the provisions of said act.

It will be seen by reference to the two foregoing acts of incorporation that both of the roads authorized to be located and constructed have for their beginning points or place Jacksonville, and to run to the terminus of each, they must run for some distance, say twelve miles, on or near the same line.

At this point of time it was ascertained that the Illinois Farmers' Railroad Company could not procure means to complete its road more than ten miles or within half mile of the town of Franklin. An arrangement was therefore made by the directory of the roads, in contemplation of a consolidation, to use the means of the Farmers' Road in constructing the road, and that the Jacksonville, Northwestern and Southeastern Railway would then continue the road on its line, but for reasons not necessary to be stated in this answer the said Illinois Farmers' Railroad Company, acting upon a provision of its charter, sold their road, their franchise, and all their property and rights to the said Jacksonville, Northwestern and Southeastern Railroad Company, and
85 surrendered thereof, which company after making said purchase continued the road through the township 14 north, of range nine (9) west, via Waverly to Virden, where it intersects with the road leading from Alton to Chicago. It is not true that the said road was ever consolidated, but by a sale one of the roads has become merged into the other; and having fully answered, pray to be dismissed, &c.

WILLIAM WEIGHTMAN.
CHARLES DAY,
By WILLIAM THOMAS.

And afterwards and, to wit, on the 26th day of June, A. D. 1877, being one of the days of said May term, A. D. 1870, of said court, the same being then duly organized for the transaction of business, certain proceedings were had and entered of record in the words and figures following, to wit:

Order making Weightman & Day defendants.

WILLIAM C. CLARK, ARTHUR HARMON, THOMAS C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, William L. Ransdall, et al., *vs.* IRVIN DUNLAP AND SAMUEL M. MARTIN AND the unknown owners of all township bonds issued by the school trustees of township No. 14 north, of range No. 9, in Morgan County, State of Illinois.	In chancery.

86 The motion submitted herein at the present term of the court by the sheriff and clerk, for a dissolution of the injunction so far as it operates upon the persons other than those named above and their property, being heard, is overruled.

And now come William Weightman and Charles Day and file their petition and enter their motion to made parties defendant herein as follows, viz, William Weightman, a citizen of Philadelphia, in the State of Pennsylvania, and Charles Day, a citizen of Camden, in the State of New Jersey, who are sued in this cause as unknown owners of thirty-two one thousand dollar bonds issued by the trustees of schools

of township 14 north, of range 9 west, in Morgan County, State of Illinois, state that the said William Weightman and Charles Day are the holders of said bonds, which they purchased and paid for without any notice or knowledge of the matters stated in the bill filed herein, and they desire to have their appearance entered as defendants in this cause and for leave to file a petition for the removal of said cause from this court to the circuit court of the United States for the southern district of Illinois.

And the court having considered said motion, sustains the same.

And thereupon said defendants Weightman and Day file their
87 petition, as follows:

Petition for removal.

To the honorable Cyrus Epler, judge of the circuit court of Morgan County *County* aforesaid:

Your petitioners, William Weightman, a citizen of the city of Philadelphia and State of Pennsylvania, and Charles Day, a citizen of Camden, in the State of New Jersey, who are sued in this cause by the name of the unknown owners of thirty-two one thousand dollar bonds issued by the trustees of schools of township 14 north, of range 9 west, in Morgan County, State of Illinois, and who have been made party defendants in said cause by the order of court of this date, and permitted to appear and defend their rights, respectfully represent that the above cause is a suit in chancery pending in this court, wherein the matter in dispute, exclusive of costs, exceeds five hundred dollars, and in which there is a controversy between, and wholly between, citizens of different States, to wit, the complainants being citizens of the State of Illinois, and the defendant William Weightman a citizen of the State of Pennsylvania, and defendant Charles Day a citizen of the State of New Jersey, which cause can be fully determined as between them. That the said complainants commenced their suit on the twenty-first day of
88 March, eighteen hundred and seventy-six, against your petitioners as the unknown owners of thirty-two one thousand dollar bonds, issued by the trustees of schools of township fourteen north, of range nine west, in the county of Morgan and State of Illinois, to obtain an injunction against the collection of taxes for the payment of interest on said bonds, amounting to fourteen hundred dollars, and to perpetually enjoin the collection of interest and principal of said bonds, amounting to thirty-two thousand dollars, as appears by a copy of the summons and writ of injunction on file in this court, issued by the clerk of this court That said summons was issued on the day and year last mentioned, returnable to the May term, eighteen hundred and seventy-six, of the Morgan County circuit court, and was returned that these defendants were not found, so that no trial could be had at the said May term, 1876, of said court; and afterwards, on the third day of January, 1877, the clerk of this court, acting under a law of the State, served a notice of the pendency of said suit, to be published in the Jacksonville Journal, a public newspaper, published weekly, in Jacksonville, Morgan County, Illinois, requiring these defendants to appear upon the said court on the first day of the next term of said court on the second
89 Monday in the month of May, 1877, and answer the bill aforesaid, which term is the term of said court at which said cause could be first tried, but no trial has yet been had. That said complainants were when the suit was commenced, and still are, citizens of the State of Illinois; that your petitioners were, when the suit was commenced, and

still are, the said William Weightman, a citizen of the State of Pennsylvania, and the said Charles Day, a citizen of the State of New Jersey.

Wherefore your petitioners pray that the said cause may be removed into the circuit court of the United States in and for the southern district of Illinois, in the seventh circuit, in pursuance of the provisions of the laws as contained in the act of Congress approved March 3d, 1875, entitled "An act to determine the jurisdiction of the circuit court of the United States and to regulate to removal of causes from the State courts and for other purposes."

Your petitioners further state that they have executed a bond with good security, as required by the act of Congress aforesaid, in such cases, and conditioned as therein specified.

WILLIAM WEIGHTMAN,
CHARLES DAY,
By their attorney, WM. THOMAS.

90 STATE OF ILLINOIS,
Morgan County:

William Thomas, being sworn, states that he is the attorney for the foregoing William Weightman and Charles Day, and has been authorized to present a petition for the removal of the cause herein mentioned into the circuit court of the United States, and he believes the facts stated in said petition are true in substance and fact.

WM. THOMAS.

Sworn before me this 26th of June, 1877.

J. N. MARSH, *Clerk.*

And it appearing to the court that said petition and the bond required by said act of Congress filed herewith in this cause are in conformity with the requirements of said act of Congress and sufficient, it is thereupon ordered that said petition and bond be, and the same are, accepted and approved by this court, and that the cause be, and the same is hereby removed from this court into the circuit court of the United States for the southern district of Illinois, in accordance with the prayer of said petition, and that this court proceed no further in this cause, said bond being in words and figures following, to wit:

Bond on removal.

91 Know all men by these presents that we, William Weightman, of the city of Philadelphia and State of Pennsylvania, Charles Day, of Camden and State of New Jersey, and Edward L. McDonald, of the city of Jacksonville, Illinois, are held and firmly bound unto William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees and William L. Ransdall, of township fourteen north, of range nine west, in Morgan County, State of Illinois, in the penal sum of one thousand dollars, for the true payment whereof we bind ourselves jointly and severally, firmly by these presents; sealed with our seals, and dated on this twenty-first day of June, 1877.

The conditions of the above obligation is such that whereas on the 21st day of March, eighteen hundred and seventy-six, a bill in chancery was filed in the clerk's office of the circuit court of Morgan County, Illinois, by the above named obligors, against the said William Weight-

man and Charles Day, and by the name and designation of the unknown owners of thirty-two one thousand dollar bonds, issued by the trustees of schools of township fourteen north, of range nine west, in the county of Morgan, upon which a summons was issued returnable to the May term, 1876, of the circuit court aforesaid, and said suit is now pending in the said circuit court, and is removed into the circuit court of the United States for the southern district of Illinois, in the seventh circuit, under the act of Congress approved March
92 third 1875, entitled "An act to determine the jurisdiction of the circuit court of the United States, and to regulate the removal of causes from State courts, and for other purposes," and whereas the said William Weightman and Charles Day have filed their petition in said Morgan County circuit court for the removal of said suit into the circuit court of the United States to be held in the southern district of Illinois;

Now if the said Weightman and Day or their legal representatives shall enter, or cause to be entered, in the circuit court of the United States for the southern district of Illinois, on the first day of the next term of said court, a copy of the record of said suit, and shall pay all costs that may be awarded by the said circuit court, if the said circuit court shall hold that the suit has been wrongfully or improperly removed thereto, and shall do, or cause to be done, such other appropriate acts as by the said act of Congress approved March 3rd, 1875, was or is required to be done upon the removal of said suit into the United States court, then the above obligation to be void; otherwise to remain in full force and virtue.

Attest: WILLIAM WEIGHTMAN,
CHARLES DAY, [SEAL.]
By their attorney', WM. THOMAS.
EDWARD L. McDONALD.

93 UNITED STATES OF AMERICA,
State of Illinois, Morgan County, ss:

I, John N. Marsh, clerk of the circuit court in and for the county of Morgan, in the State of Illinois, do hereby certify the foregoing to be full, true, and complete transcript of the record and proceeding of our said court, together with a true copy of all papers on file, in a certain cause lately pending therein on the chancery side thereof, wherein William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall were complainants, and Irvin Dunlap, sheriff of Morgan County and ex-officio collector of taxes, Samuel M. Martin, clerk of the county court of Morgan County, Illinois, and the unknown owners of 32 one thousand dollar bonds, issued by the trustees of schools of township 14 north, range 9 west, in the county of Morgan and State of Illinois, and William Weightman and Charles Day, defendants, as appears from the records and files of said court.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at office in the city of Jacksonville, county and State
94 aforesaid, this 21st day of July, A. D. 1877.

[L. S.] JNO. N. MARSH.

Which said transcript is endorsed as follows: Filed Nov. 8th, 1877. J. A. Jones, clerk.

And afterwards, to wit, on the 9th day of November, in the year last

aforesaid, came said complainants by their said solicitor, and filed in said clerk's office their replication in said cause, which said replication is in the words and figures following, to wit:

Replication.

In the United States circuit court in and for the southern district of Illinois. November special term, 1877.

WILLIAM C. CLARK ET AL., COMPLAINANTS,
vs.
IRVIN DUNLAP, WILLIAM WEIGHTMAN, ET AL., def'ts. } In chancery.

Now at this day comes the said complainants, and by leave of
95 the court, and by way of replication to the several answers of the several defendants in this cause, filed to the bills of complaint in this cause filed, and to the matters and things therein alleged and set forth, so far as the same contradict, deny, or avoid, or attempt to avoid, the matters and things in the bill of complaint contained charged therein, against said defendants, these complainants not admitting the sufficiency of the matters in said answers, deny all of said matters so alleged and set up in said answers, and say the same are not true, but that the matters charged and set forth in their said bill of complaint are sufficient and true, as in said bill is alleged, and these they, the said complainants, are ready to aver, maintain, and prove; whence, wherefore, they pray, &c.

JOHN J. RINAKER,
Solicitor for Complainants.

(Endorsed:) Filed Nov. 9th, 1877. J. A. Jones, clerk.

And afterwards, to wit, on the 16th day of February, in the year of our Lord eighteen hundred and seventy-eight, came said defendants, by their said attorney, and filed in said clerk's office their bond for costs in said cause, which said bond for costs is in the words and figures
96 following, to wit:

Bond for costs.

Circuit court, United States of America, southern district of Illinois, ss:

WILLIAM C. CLARK ET AL.
vs.
WILLIAM WEIGHTMAN, CHARLES DAY, & others.

We do hereby enter ourselves security for costs in this cause, and acknowledge ourselves bound to pay, or cause to be paid, all costs which may accrue in this action, either to the opposite party or to any of the officers of this court, in pursuance of the laws of this State and of the United States.

Dated this twenty-sixth day of November, 1877.

W'M WEIGHTMAN.
CHA'S DAY.
MARSHALL P. AYERS.

(Endorsed:) Filed February 6, A. D. 1878. J. A. Jones, clerk.

And then, afterwards, to wit, on the 12th day of March, in the year last aforesaid, came said defendants, Weightman and Day, by their said solicitor, and filed in the office of the clerk of said court their motion to dismiss the bill in said cause, which said motion is in the words
97 and figures following, to wit:

Motion to dismiss bill.

THE UNITED STATES OF AMERICA.

In the circuit court of the United States for the southern district of Illinois.

WILLIAM C. CLARK, ARTHUR HARMON, THOMAS C. BROWN, JEREMIAH COX, HARDIN G. KEPLINGER, JOSIAH A. BARROWS, ELIJAH M. REES, and WILLIAM M. RANSDALL, of township 14 north, of range 9 west, in Morgan County, State of Illinois, who sue for themselves and on behalf of other taxpayers of said township, whose names and property taxable in said township and hereinafter mentioned and set forth, state that they are the owners, and liable for taxes on the real estate and personal property hereinafter mentioned as being in said township numbered 14 north, of range 9 west, in Morgan County, State of Illinois, and being subject to taxation in said township, that a particular description of said real estate is hereinafter given, and the valuation of said personal property is hereinafter set forth opposite the names of your orators and the other taxpayers of said township, on whose behalf they sue as aforesaid; and your orators state to your honor that they are specially authorized to sue in behalf of those other taxpayers whose names are hereinafter mentioned, complainants,
98 *against*
WILLIAM H. WEIGHTMAN AND CHARLES DAY, defendants.

The object and purpose of the bill is to enjoin the collection of bonds executed by the trustees of schools of township 14 north, of range 9 west, in Morgan County, Illinois, for payment of subscription of stock in the Farmers' Railroad Company, incorporated by an act of the legislature of the State of Illinois, upon the ground that the trustees of schools had no right to subscribe for the stock or to execute the bonds. The foregoing is the address of the bill. An injunction was granted by the circuit court of Morgan County, Illinois. An injunction bond was executed as required by the court. These defendants are sued by the name and description of the "owners of 32 bonds whose names are unknown."

After the execution of a proper injunction bond they were made parties on their application, and then on their petition the cause was removed from the State court to this court.

The said Weightman and Day, by W. Thomas, their solicitor, now move the court to dismiss the bill because neither the trustees of *the*

trustees of the township or the corporation to which the bonds were given and made payable are made parties to the suit.

99 The said Weightman & Day submit their further motion to the court, in case the bill is not dismissed for want of proper parties, that the injunction be dissolved in so far as it operates upon the persons and their property in respect to all persons except William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall, because these are the only persons against whom the court can make any decree.

WM. THOMAS, *Att'y.*

(Endorsed:) Filed March 12, 1878. J. A. Jones, clerk.

And afterwards, to wit, on Tuesday, said 12th day of March, at the January term of said court, in the year last aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order dissolving injunction in part.

WILLIAM C. CLARK ET AL.
vs.
WILLIAM H. WEIGHTMAN ET AL. } In chancery.

And now on this 12th day of March, 1878, come the parties by their counsel and submit to the court the motion of the defendants William H. Weightman and Charles Day to dismiss the bill for the want

100 of proper parties; and the court having heard and considered the same, over'rules said motion.

And the parties, by their counsel, thereupon submit to the court the motion of the defendants Weightman and Day to dissolve the injunction issued in this cause; and the court having heard and considered the same, doth order and decree that the injunction be dissolved, except so far as it operates on the persons and property of the complainants William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall.

And afterwards, to wit, on the 14th day of March, in the year last aforesaid, came William Leak et al., by their solicitor, and filed their petition to be made parties complainant in said cause, which said petition is in the words and figures following, to wit:

Petition of Wm. Leak et al.

In the circuit court of the United States for the southern district of Illinois, January term, 1878.

WILLIAM C. CLARK ET AL.
vs.
IRVIN DUNLAP, SHERIFF AND EX OFFICIO COLlector of taxes, and Samuel M. Martin, county clerk of Morgan county, State of Illinois, William H. Weightman et al. } In chancery.

101 The petition of William Leak, Hodges Carlile, Eneas Scott, Jacob H. Peak, R. Sample, John Harmon, Francis Mayfield, O.

D. Jasper, James Melon, John S. Dougherty, Thomas Swan, William Haynes, Wm. Bateman, P. G. Bourland, Patrick Ryan, Robert Seymore, jr., F. M. Scott, William Price, William C. Clayton, Peter Roberts, Miles Lyons, John Spires, Henry Lackeman, Sylvanus Scott, A. B. Vance, J. H. Hill, O. W. Topleff, John Ryan, J. B. Cox, Wm. Six, Arthur Dunigan, Job Coates, Edward T. Tilling, David M. Cox, Mike Conkle, Patrick Dunigan, Edward E. Gray, Henry Stump, James A. Clayton, B. F. Vaughn, Wm. A. Slack, P. Harmon, Wm. J. Wyatt, James Oxley, John Beerp, David S. Dessau, Wm. N. Sandy, J. B. Mansfield, Samuel Keplinger, John Stark, John F. Davenport, Merril C. Davenport, Patrick Harmon, Charles H. Pierce, J. H. Boyer, John Mendeth, Green Haynes, H. P. Bourland, Jonas Scott, Frank Pollard, Mees Fremme, John Lukenmeyer, William Wise, Ezra C. Scott, Jerry Cox, and Coduden Cox, W. T. Massie, J. M. Coons, R. M. Fanning, John Leak, James Bond, J. M. Fanning, W. D. Gregory, C. Clayton, Albert W. Cox, C. T. Davenport, Frank Wigginjoist, Jacob Boyer, James M. Cox, Moses L. Clayton, William Thompson, Sarah Dodsworth, Susan M. Dodsworth, Richard Palmer, Jesse Jones, jr., David Daulings, J. J. Barrows, J. A. Barrows, Edward Craig, Jas. W. Craig, J. V.
102 Fry, S. S. Tunnell, Barnabas Barrows, show unto your honors that they are all tax-payers and owners of taxable property situate and being in the county of Morgan and State of Illinois, and that they own and are liable to pay all taxes lawfully imposed on the property in the bill in the above entitled cause mentioned and described opposite in said bill to their respective names, which property is situate and being in the township No. 14 north, of range numbered 9 west of the 3rd principal meridian, in Morgan County, State of Illinois, and that they were such owners of said property at the date of the filing of the original bill in the above-entitled cause, namely, on the day of March, 1876, and when the taxes of 1875 were assessed against said property in said bill mentioned as belonging to them, and to which bill your petitioners refer for greater certainty on that subject.

And your petitioners further state unto your honors that the said property which is on the tax-lists of Morgan County, State of Illinois, described as in said bill, and that there was charged against said property on said tax lists for the year 1875 a certain tax thereon designated and called "township bond tax," which tax was imposed without authority of law, the said tax having been assessed and levied to pay the interest on 32 one-thousand dollar bonds issued by the trustees
103 of township numbered 14 north, of range No. 9 west of 3d principal meridian, to aid in building the Illinois Farmers' Railroad, and were delivered to said railroad company for the purpose aforesaid, and without authority of law, and that said tax so levied was imposed without authority of law, said bonds being void, and that the collection of said taxes has been restrained by injunction issued out of the circuit court of Morgan County, Illinois, at the suit of the said William C. Clark and others in the cause above entitled, which suit has been transferred into this honorable court, according to the provisions of statute in such case made and provided, and which injunction is still in force as to said William C. Clark and others.

And your petitioners further state unto your honor that their rights as to said tax and the circumstances of the levy and imposition of said tax on the said property of your petitioners, and they are all in like and similar manner affected as alleged in said bill by said William C. Clark et al. as to themselves; and that they are all subject to same common grievance, and therefore they pray that they may be allowed to become

parties to said suit and be made complainants in said bill so filed by said William C. Clark, on such terms as to this honorable court may seem meet and proper.

And, as in duty bound, they will ever pray.

104 WILLIAM LEAK and others,
By JOHN I. RINAKER,
Their Solicitor.

(Endorsed:) Filed March 14, 1878. J. A. Jones, clerk.

And afterwards, to wit, on Thursday, said 14th day of March, at the term and in the year last aforesaid, the following further proceedings were had in said court in said entitled cause and entered of record, to wit:

Order making new parties complainant.

WILLIAM C. CLARK ET AL.
vs.
WILLIAM H. WEIGHTMAN ET AL. } In chancery.

This day come William Leak, Hodges Carlile, Eneas Scott, Jacob H. Peak, R. Sample, John Harmon, Francis Mayfield, O. D. Jasper, James Melon, John S. Dougherty, Thomas Swain, William Haynes, Wm. Bateman, P. G. Bourland, Patrick Ryan, Robert Seymore, jr., F. M. Scott, William Price, William C. Clayton, Peter Roberts, Miles Lyons, John Spires, Henry Lukeman, Sylvanus Scott, A. B. Vance, J. H. Hill, O. W. Topliff, John Ryan, J. B. Cox, Wm. Six, Arthur Dunigan, Job Coates, Edward T. Tilling, David M. Cox, Mike Conkle, Patrick Dunigan, Edward E. Gray, Henry Stump, James A. Clayton, B. F.
105 Vaughn, Wm. A. Slack, P. Harmon, Wm. J. Wyatt, James Oxley, C. M. Hacking, Andrew Lowry, John Beerp, David S. Dessau, Wm. N. Tandy, J. B. Mansfield, Samuel Keplinger, John Stark, John F. Davenport, Merrill C. Davenport, Patrick Harmon, Charles H. Pierce, J. H. Boyer, John Meredith, Green Haynes, H. P. Bourland, Jonas Scott, Frank Pothost, Mrs. Fromme, John Lukenmeyer, William Wise, Ezra C. Scott, Jerry Cox and Corydon Cox, W. F. Massie, J. M. Coons, R. M. Fanning, John Leak, James Bond, J. M. Fanning, W. D. Gregory, Geary Clayton, Albert W. Cox, C. T. Davenport, Frank Wiginjoist, Jacob Boyer, James M. Cox, Moses L. Clayton, William Thompson, Sarah Dodsworth, Sarah M. Dodsworth, Richard Palmer, Jesse Jones, jr., David Danling, J. I. Barrows, J. A. Barrows, Edward Craig, Jas. W. Craig, J. V. Fry, S. S. Tunnell, and Barnabas Barrows, by John I. Rinaker, esq., their solicitor, and file their petition praying to be made parties in original bill of complaint in this cause; and the court having considered said petition, and being fully advised thereon, doth grant said petitioners leave to be made parties as prayed for.

And afterwards, to wit, on Friday, the 22d day of March, at the term and in the year last aforesaid, the following further proceedings were had in said court in said cause and entered of record, to wit:

106 *Order.—Leave to file amended bill.*

WILLIAM C. CLARK ET AL.
vs.
WILLIAM H. WEIGHTMAN ET AL. } In chancery.

On motion of complainants, by John I. Rinaker, esq., their solicitor, leave to file amended bill is granted.

And then, afterwards, to wit, on said 22d day of March, in the year last aforesaid, came said complainants, by their said solicitor, and filed in said clerk's office their amended bill in said cause, which said amended bill is in the words and figures following, to wit:

Amended bill.

In the circuit court of the United States for the southern district of Illinois.

WILLIAM C. CLARK ET AL., COMPLAINANTS, *vs.* IRVIN DUNLAP, SHERIFF AND EX-OFFICIO COLlector, and Samuel M. Martin, county clerk of Morgan County, State of Illinois, and others, defendants.	In chancery. Bill for injunction & relief.

The said complainants come now, and by leave of the court amend the bill in this cause filed by adding, after the name of William L. Ransdall, at line on 1st page of the bill, the following names as complainants in said bill, namely: J. J. Jones, Jesse Jones, jr., David Rauling, J. I. Barrows, Edward Craig, James W. Craig, J. V. Fry, S. S.
107 Tunnell, Barnabas Barrows, Wm. Leak, Hooper Carlisle, Eneas Scott, Jacob H. Peaks, R. Sample, John Harmon, Francis Mayfield, O. D. Jasper, James Whelan, John S. Dougherty, Thomas Swain, William Haynes, Wm. Bateman, P. G. Bourland, Patrick Ryan, Robert Seymour, jr., F. M. Scott, William Pierce, William C. Clayton, Peter Robert, Miles Lyons, Henry Lukeman, Sylvanus Scott, A. B. Ward, J. H. Hill, O. W. Topliff, John Ryan, John Spires, Anthony Dunigan, Job Coates, Edward T. Tilling, David M. Cox, Mike Conkle, Patrick Dunigan, Edward E. Gray, Henry Stump, Arthur Harmon, James N. Clayton, B. T. Vaughn, Wm. A. Slack, P. Hamign, Wm. G. Wyatt, James Oxley, C. M. Hawkins, Francis Clayton, John Burp, Andrew Lowery, David S. Dessau, Wm. N. Tandy, J. B. Mayfield, Samuel Keplinger, John Starkk, John F. Davenport, Merrill C. Davenport, Patrick Harmon, Charles H. Pierce, J. A. Boyer, Wm. C. Clark, John Meredith, Green Haynes, Thos. C. Brown, H. T. Bourland, James Scott, Frank Pothost, Mrs. Fromine, John Luppman, William Wiser, Ezra C. Scott, Jerry and Corydon Cox, W. T. Massie, J. M. Coons, R. M. Fanning, Wm. D. Gregory, Geo. Clayton, Albert W. Cox, C. T. Davenport, Frank Wigginjoist, Jacob Boyer, James M. Cox, Moses L. Clayton, William Thompson, Sarah M. Dodsworth, Sarah Dodsworth, Richard Palmer.

JOHN I. RINAKER,
Sol'r for Compl'ts.

(Endorsed:) Filed March 22d, 1878. J. A. Jones, clerk.

108 And afterwards, to wit, on said 22d day of March, in the year last aforesaid, came said complainants, by their solicitor, and filed in said clerk's office their notice for a motion to reinstate the injunction in said cause; which said notice is in the words and figures following, to wit:

Notice for motion to reinstate.

In the circuit court of the United States for the southern district of Illinois.

WILLIAM C. CLARK AND OTHERS, COMPLAINANTS,
vs.
IRVIN DUNLAP, SHERIFF AND EX-OFFICIO collector, and Samuel M. Martin, county clerk of Morgan County, State of Illinois, and others, defendants.

To Hon. William Thomas, solicitor for defendants:

You will please to take notice that on the 28th day of March, 1878, or as soon thereafter as counsel can be heard, I will enter a motion in the above entitled cause, on behalf of the complainants in the above cause, for an order of said court to renew or reinstate the injunction in said cause, lately dissolved, by an order of said court as all of the parties to said bill, except William C. Clark, Elijah M. Rees, Arthur Harmon, Thos. C. Brown, Josiah A. Barrows, Jeremiah Cox, William L. Ransdall, and Hardin G. Keplinger, and make the same to apply
109 to all the persons and property in the bill in said cause mentioned, the bill in said cause having, by leave of the court, been amended by adding the said persons as to whom said injunction was so dissolved, as formal parties complainants in said bill, and for such other order as may be necessary to be then and there taken in said cause, conformable to the rules and practice of said court; when and where you can be and appear and resist the said motion, if you see fit so to do.

Respectfully,

JNO. I. RINAKER,
Solicitor for Complainants.

(Endorsed:) Filed March 22, 1878. J. A. Jones, clerk.

And then, afterwards, to wit, on the 25th day of March, in the year last aforesaid, came said defendants, by their solicitor, and filed in said clerk's office their notice for motion for judgment for damages in said cause; which said notice is in the words and figures following, to wit:

Notice for motion for damages.

UNITED STATES OF AMERICA:

In the circuit court of the United States for the southern district of Illinois.

WILLIAM C. CLARK, ARTHUR HARMON, Thomas C. , Jeremiah Cox, Hardin
110 G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William M. Ransdall, complainants,
against
WILLIAM H. WEIGHTMAN AND CHARLES Day, defendants.
} In chancery.

The said complainants are hereby notified that on the 28 day of March, 1878, or so soon thereafter as counsel can be heard, the defendants will move the court for judgment against them for the damages sustained by reason the wrongful obtaining an injunction in this case, which, by an order of this court of the 12 March, 1878, was in part dissolved; they

will claim as damages the interest on the amount enjoined, from the date of the injunction, and also a reasonable fee to the attorney for his services in obtaining the dissolution of the injunction, as provided for by the law of this State.

WM. THOMAS,
Attorney or Def'ts.

Jacksonville, 26 March, 1878.

(Endorsed:) Filed March 25th, 1878. J. A. Jones, clerk.

And afterwards, to wit, on Thursday, the 28th day of March, at the term and in the year last aforesaid, the following further proceedings were had in said court in said cause and entered of record, to wit:

111 *Order reinstating injunction.*

WILLIAM C. CLARK, ARTHUR HARMON, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, William L. Ransdall, et al.,
vs.
WILLIAM H. WEIGHTMAN, CHARLES DAY, Irvin Dunlap, sheriff and ex officio collector, and Samuel M. Martin, county clerk of Morgan County, Illinois, et al.
} In chancery.

The bill in this cause having been amended, making J. J. Jones, Jesse Jones, jr., and others named in said amended bill co-complainants with the original complainants named in the caption hereof, and said co-complainants having filed their motion herein for a renewal and reinstatement of the injunction herein formerly granted, and dissolved, so far as it respected the said co-complainants and the collection of the taxes in respect of their property or the property of any of them, and having given due notice to the solicitor of defendants of the said motion, and now said motion having been heard, upon consideration thereof it is ordered that said original injunction be renewed and reinstated in all respects in behalf of the said co-complainants, and that the said defendants severally be and stand enjoined from proceeding as respects the property of said co-complainants, or any of them, in all re-
112 spects the same as with respect to the original complainants herein.

And afterwards, to wit, on said 28th day of March, in the year last aforesaid, came said defendants, by their solicitor, and filed in said clerk's office their suggestion of damages in said cause, which said suggestion of damages is in the words and figures following, to wit:

Suggestion of damages.

THE UNITED STATES OF AMERICA:

In the circuit court of the United States for the southern district of Illinois.

WILLIAM C. CLARK, ARTHUR HARMON, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, & William L. Ransdall
against
WILLIAM WEIGHTMAN & CHARLES DAY.
} In chancery.

The said Weightman and Day represent to the court that the above-

named complainants in their proceeding herein, by representing to the court that they had lawful right to represent a number of other persons, having the same cause of complaint and right to relief in the premises as they the complainants had, obtained an injunction against the collection of taxes charged against them and their property amounting to about the sum of $1,200.

113 Whereas said complainants had no right to any such injunction, in consequence of which this court on the 12 March, 18 8, by its order dissolved the said injunction except so far as it operated on the persons and property of the complainants. By reason of which said unlawful action of the complainants the defendants have been hindered and delayed in the collection of money justly due to them, and have thereby sustained damages to the amount of $150.00.

And they further suggest and claim that they have been compelled to employ counsel in order to obtain a dissolution of said injunction, so improperly obtained, at great expense, to wit, the sum of $300. And they ask this honorable court for judgment against said complainants for the amount of said damages, so unjustly and wrongfully sustained in the premises. And as in duty bound will ever pray, &c.

WM. THOMAS,
Att'y for Def'ts.

JACKSONVILLE, 28 *March*, 1878.

(Endorsed :) Filed March 28th, 1878. J. A. Jones, clerk.

And afterwards, to wit, on Monday the 15th day of April, at the term and in the year last aforesaid, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:

114 *Decree.*

WILLIAM C. CLARK, THOMAS C. BROWN, ARthur Harmon, and others, *vs.* WILLIAM WEIGHTMAN, CHARLES DAY, IRVIN Dunlap, sheriff and ex-officio collector of Morgan County, State of Illinois, and Samuel M. Martin, county clerk of Morgan County, State of Illinois.	In chancery.

And now on this 15th day of April, 1878, come again the parties aforesaid, by their attorneys, the said complainants by John I. Rinaker and the defendants by William Thomas, and this cause coming on, being heard upon bill and amended bill, answers, replications, exhibits and evidence, and the court being now sufficiently advised of and concerning the matters in controversy, doth adjudge, declare, and decree that the bonds in the bill in this cause described and mentioned were issued without authority of law, are therefore illegal and void. And it is further ordered, adjudged, and decreed by the court that the injunction heretofore issued in this cause is hereby made perpetual, and that said defendants and their successors in office, as such collector of taxes and as such county clerk, be and they hereby are perpetually enjoined

115 from doing any act or taking any step to collect or enforce the collec of the said sum of money so enjoined, and that said clerk and his successors in office are hereby restrained and perpetually enjoined from extending or charging against the property of the parties complainants in the bill in this cause any taxes for the purpose of pay-

ing said bonds, or any coupons therewith issued, and sheriff and ex-officio collector and his successors from collecting or attempting to collect any more such taxes. And that the defendants Weightman and Day pay the costs of this suit.

And on the prayer of the defendants Weightman and Day, and it appearing to the court that the amount in controversy in the cause exceeds $5,000, an appeal is allowed them from the foregoing decree to the Supreme Court of the United States, they executing an appeal bond within 60 days, with security, to be approved by the clerk, in the penalty of $500, conditioned as required by law.

The parties agree to the existence of the following facts in addition to the facts admitted in the pleadings:

First. The complainants paid the tax called the railroad bond tax for the years 1873 and 1874 before the filing the bill herein.

116 Second. That upon the delivery of the bonds executed by the trustees of schools to the president of the Farmers' Railroad Company, a certificate of stock was delivered to the said trustees.

Third. That by an agreement between the trustees of schools and the Farmers' Railroad Company the road was not completed by that company through the township, and the amount of the bonds originally agreed on was ratably reduced.

And now also came on to be heard the motion of the defendants for an assessment of damages against the complainants for the wrongful suing out of so much of the injunction in this cause as was dissolved on the 12th of March, 1878; and the court having heard the proofs & allegations of the parties, doth assess the damages at the sum of one hundred dollars. It is therefore ordered & decreed by the court that the complainants, William C. Clark, Arthur Harmon, Hardin G. Keplinger, Thomas C. Brown, Josiah A. Barrows, Elijah M. Rees, and William L. Ransdall, within thirty days from this date, pay to the defendants said sum of one hundred dollars, and that in default thereof an execution issue for the collection of the same as on a judgment at law.

117 And afterwards, to wit, on the 10th day of June, in the year last aforesaid, came said defendants, by their solicitor, and filed in said clerk's office their appeal bond in said cause, which said appeal bond is in the words and figures following, to wit:

Appeal bond.

In the circuit court of the United States for the southern district of Illinois.

WILLIAM C. CLARK, ARTHUR HARMON, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William Ransdall	}
vs.	
WILLIAM WEIGHTMAN, CHARLES DAY, IRVIN Dunlap, sheriff of MorganCounty and ex-officio collector of taxes, Samuel M. Martin, clerk of the county court of Morgan County, Illinois, and the unknown owners of thirty-two one thousand dollar bonds, issued by the trustees of schools of township 14 north, range 9 west, in the county of Morgan, and State of Illinois.	} In chancery.

118 Know all men by these presents that we, William Weightman

and Charles Day, as principal, and Nathaniel Bishop, as surety, are held and firmly bound unto William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William Ransdall, in the sum of five hundred dollars, to be paid to the said William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, and William Ransdall, their heirs, executors, or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents, sealed with our seals and dated this eighth day of June, A. D. 1878.

Whereas the foregoing named defendants, William Weightman and Charles Day, have prayed an appeal to the Supreme Court of the United States to reverse the decree in the foregoing entitled cause by the circuit court of the United States for the southern district of Illinois:

Now, therefore, the condition of this obligation is such that if
119 the said William Weightman and Charles Day shall prosecute their said appeal to effect and answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

W. WEIGHTMAN, [SEAL.]
By W. THOMAS.
CHARLES DAY, [SEAL.]
By W. THOMAS.
NATHANIEL BISHOP. [SEAL.]

Approved.

J. A. JONES,
Clerk.

(Endorsed:) Filed June 10, 1878. J. A. Jones, clerk.

120 UNITED STATES OF AMERICA,
Southern District of Illinois, ss:

I, J. A. Jones, clerk of the circuit court of the United States in and for the southern district of Illinois, do hereby certify the foregoing is a true and correct copy of all the papers filed and proceedings thereon had in a certain cause wherein William C. Clark, Arthur Harmon, Thomas C. Brown, Jeremiah Cox, Hardin G. Keplinger, Josiah A. Barrows, Elijah M. Rees, William L. Ransdall, J. J. Jones, Jesse Jones, jr., David Rawling, J. I. Barrows, Edward Craig, James W. Craig, J. V. Fry, S. S. Tunnell, Barnabas Barrows, William Leak, Hoopes Carlile, Eneas Scott, Jacob H. Peaks, R. Sample, John Hannon, Francis Mayfield, O. D. Jasper, James Whelan, John S. Dougherty, Thomas Swain, William Haynes, William Bateman, P. G. Bourland, Patrick Ryan, Robert Seymour, jr., F. M. Scott, William Pierce, William C. Clayton, Peter Roberts, Miles Lyons, Henry Lukeman, Sylvanus Scott, A. B. Waid, J. H. Hill, O. W. Topliff, John Ryan, John Spirer, Anthony Dunigan, Job Coates, Edward T. Tilling, David M. Cox, Mike Cokle, Patrick Dunigan, Edward E. Gray, Henry Stump, Arthur Harmon,
121 James N. Clayton, B. T. Vaughn, William A. Slack, P. Hamign, William G. Wyatt, James Oxley, C. M. Hawkins, Francis Clayton, John Burp, Andrew Lowery, David S. Dessau, William H. Pardy, J. B. Mayfield, Samuel Keplinger, John Stark, John F. Davenport, Merril C. Davenport, Patrick Harmon, Charles H. Pierce, J. A. Boyer, William C. Clark, John Meredith, Green Haynes, Thomas C. Brown,

H. T. Bourland, James Scott, Frank Pothost, Mrs. Fromine, John Luppman, William Wiser, Ezra C. Scott, Jerry and Corridan Cox, W. T. Massie, J. M. Coons, R. M. Fanning, William D. Gregory, George Clayton, Albert W. Cox, C. T. Davenport, Frank Wigginjost, Jacob Boyer, James M. Cox, Moses L. Clayton, William Thompson, Sarah M. Dodsworth, Sarah Dodsworth, and Richard Palmer are complainants, and William Weightman, Charles Day, Irwin Dunlap, sheriff and ex-officio collector of Morgan County, State of Illinois, and Samuel M. Martin, county clerk of Morgan County, State of Illinois, are defendants, as truly and completely as the same appear of file and record in my said office.

In witness whereof I have hereunto set my hand and seal of said court, at Springfield, in said district, this twenty-fourth day of August, A. D. eighteen hundred and seventy-eight, and of our Independence the 103rd year.

[SEAL.] J. A. JONES, *Clerk.*

(Indorsement on cover:) No. 469. William Weightman and Charles Day, appellants, vs. William C. Clark et al. S. Illinois C. C. U. S. Filed 10th September, 1878.

O

SUPREME COURT OF THE UNITED STATES.

No. 194.

WILLIAM WEIGHTMAN *et al.*, Appellants,

vs.

WILLIAM C. CLARK *et al.*

BRIEF OF APPELLANTS.

R. J. C. WALKER,
HENRY FLANDERS,
Pro Appellants.

COLLINS, Printer, 705 Jayne Street.

SUPREME COURT OF THE UNITED STATES.

WILLIAM WEIGHTMAN *et al.*,
Appellants,
v.
WILLIAM C. CLARK *et al.*

No. 194.

THE FACTS.

By an Act of the General Assembly of the State of Illinois, approved February 28, 1867, the "Illinois Farmers' Railroad Company" was incorporated and vested with power to locate, construct, complete, etc., a railroad from and to certain points described in said Act. 2d vol. of Private Acts, p. 487.

By an amendment to the foregoing Act, passed April 15, 1869 (3d vol. of Private Acts, p. 306), it is provided in the second section thereof as follows:—

"It shall be lawful for the corporate authorities of the "towns, townships, cities, and counties through which said "road shall pass to take stock in the said company; and "shall also be empowered to make assessments, levy taxes, "and collect the same, in the manner in which the said sev- "eral towns, townships, cities, and counties assess and col- "lect taxes, for the purpose of paying the said assessments "on the subscriptions to the said stock, or the interest "accruing thereon, and the said towns, cities, townships, "cities, and counties may issue bonds bearing interest, at any "point they may designate, either within or without the "State of Illinois, at a rate not exceeding ten per cent. per "annum, payable annually or semi-annually as they may "decide; provided that the said townships, cities, or towns

"shall not subscribe to the stock of said company without "submitting the said proposed subscriptions to a vote of the "legal voters of their respective townships, cities, or towns, "thirty days' notice of which shall be given, election held, "and witness made as provided by the general election laws "of this State; and provided further that no such bonds "shall issue, nor shall any interest be payable thereon or "accrue until said road is completed throughout the said "townships, cities, towns, or counties; and provided further "that the subscriptions on the part of said counties shall not "be for a sum exceeding $10,000 per mile of the line of "said road in the said counties."

Section 3 provides: "That in counties not under town- "ship organization it shall be lawful for the trustees of "schools to make subscriptions for their respective town- "ships and issue bonds as provided in the preceding sec- "tions; and for the purpose of paying the said subscriptions "on bonds, or the interest thereon, shall levy a tax not ex- "ceeding the rate of said per cent. per annum upon the tax- "able property of their respective townships, and shall, "through their treasurer, certify the said assessment to the "clerk of the County Court of their respective counties; and "it shall be the duty of the said clerk of the County Court "to carry out the tax so assessed upon the collector's book; "and the amount so raised by taxation shall remain in the "hands of the treasurer of the proper county, and shall be "employed by him in first paying the interest due on said "bonds, and then the principal, if any funds shall remain "in his hands, and for no other purpose."

In pursuance of the foregoing provisions an election was duly held on February 1, 1870, in Township No. 14, north of range No. 9, west of the third principal meridian, in the County of Morgan, and a large majority of the legal voters of said township authorized the trustees of schools to subscribe to the stock of said road, and to issue bonds in payment thereof. The bonds were accordingly issued, and the

said trustees of schools received therefor a certificate of stock of the said Farmers' Railroad Company.

The Farmers' Railroad Company was regularly organized on or about November 1, 1869, and thereupon proceeded to locate and construct the railroad authorized by their charter. They built about ten miles of the contemplated road, when, from lack of means to proceed therewith, acting upon a provision of their charter, they sold their road, franchises, etc., to the Jacksonville, Northwestern, and Southeastern Railroad Company, a corporation organized February 17, 1870, under the provisions of an Act of the General Assembly of Illinois, approved February 23, 1867. Vol. 2 Private Laws, p. 709.

By this latter company, to which the Farmers' Railroad Company had been transferred, the road was continued through Township 14, north of range nine west, and thence on to Virden.

When the road thus built was completed through the said township, the bonds of the township were delivered, and afterwards sold to the appellants and others, without knowledge of any objection to them. Taxes were levied and collected by the township for two or more years to pay the interest on said bonds, and such interest was actually paid. The subscription by the township to the stock of the Farmers' Railroad Company, the receipt and holding of the stock by the township, the assent of the qualified voters of the township that subscription should be made, the actual issuing of the bonds, and the purchase of the same by the appellants in good faith and for value, are facts which sufficiently appear from the record.

THE LAW.

1. Assuming that the township in question had the power to issue these bonds, the *bona fide* holders may rightfully presume that they were issued under circumstances giving the requisite authority, and they cannot be impeached for any infirmity in the hands of such holders any more than can other commercial paper be so impeached. They are securities which pass from hand to hand with the immunity given by the common law to bills of exchange and promissory notes. If the corporate agents exceed their authority as to form, manner, detail, or circumstance, or if they execute it in an irregular manner, the loss must fall on those whom they represent, and not on those who deal with them.

Gelpcke *v.* City of Dubuque, 1 Watt. 175.

County of Daviess *v.* Huidekoper, S. C. U. S., Feb. 26, 1879.

2. The trustees of schools for the township in question were empowered by the General Assembly of Illinois to subscribe to the stock of the Farmers' Railroad Company, and to issue bonds in payment of the same. Was the General Assembly competent to confer such power? By Section 5 of Article 9 of the Illinois Constitution of 1848, it is provided that "the corporate authorities of counties, town-"ships, school districts, cities, towns, and villages may be "vested with power to assess and collect taxes for corporate "purposes."

The Supreme Court of Illinois, in several decisions subsequent to the issue of these bonds (Trustees, etc., *v.* The People, 63 Ill. 299; The People *ex rel. v.* Dupuyt *et al.* 71 Ill. 651; and The People *v.* Trustees of Schools, 78 Ill. 136), has held that school districts, and school trustees, could not be clothed with the power, under the foregoing clause of the Constitution, to subscribe stock, and issue and deliver bonds

to aid in the construction of railroads; such grant of power not being "for a corporate purpose."

3. If this Court is bound to follow these adjudications the appellants have no case. But this Court said, in Gelpcke *v.* City of Dubuque, 1 Wall. 175, 206: "We shall never im- "molate truth, justice, and the law, because a State tribunal "has erected the altar and decreed the sacrifice."

And it also said, in Township of Pine Grove *v.* Talcott, 19 Wall. 666, 677: "In this class of cases this Court is not "bound by the judgment of the courts of the States where "the cases arise. It must hear and determine for itself. "Here commercial securities are involved. When the "bonds were issued, there had been no authoritative inti- "mation from any quarter that such statutes were invalid. "The Legislature affirmed their validity in every Act by an "implication equivalent in effect to an express declaration. "And during the period covered by their enactment, neither "of the other departments of the government of the State "lifted its voice against them. The acquiescence was uni- "versal."

And it likewise said, in Olcott *v.* The Supervisors, 16 Wall. 678, 690: "Whether a use is public or private is not "a question of constitutional construction. It is a question "of general law. . . . Its solution must be sought not in "the decisions of any single State tribunal, but in general "principles common to all courts. The nature of taxation, "what uses are public and what are private, and the extent "of unrestricted legislative power, are matters which, like "questions of commercial law, no State court can conclu- "sively determine for us."

4. Assuming, in the light of the foregoing decisions, that this Court will hear and determine for itself whether these bonds are valid, and assuming also, that the powers of school districts and school trustees may, and do, primarily, relate to matters pertaining to schools, yet it nowhere appears that the Legislature is inhibited to clothe these corpora-

tions with additional powers, such, for instance, as to assess taxes to add to, and improve, the means of communication, by laying out highways, and subscribing to the stock of railroad companies. "If the purpose is one for which the "State may properly levy a tax upon its citizens at large, "its Legislature has the power to apportion and impose the "duty, or confer the power of assuming it upon the municipal "divisions of the State." Olcott *v.* The Supervisors, *supra.* Because, in their original creation, school trustees and school districts had only certain powers given them, the State is not debarred from extending the grant and conferring on them other and additional powers.

5. The building of a highway is, or may be made a corporate purpose by legislative action. "Unless prohibited "from doing so, a municipal corporation has the same power "to aid in their construction (*i. e.*, railroads) as to procure "water for its water-works, coal for its gas-works, or gravel "for its streets from beyond its territorial limits." Township of Pine Grove *v.* Talcot, 676, *supra.* If a municipal corporation may do this, why may not a *quasi* municipal corporation, whose powers and functions have not been defined by the Constitution, be clothed by the General Assembly with the same power? Besides, the building of a railroad through these school districts may aid the very purpose for which they were organized, and hence germane to the object of their creation. That is to say, a railroad may enhance the value of the school lands and increase the means for the support of schools, and thereby subscriptions to such a work may fall directly within the purview of their corporate purposes. It was on this ground that the Chief Justice of Illinois placed his dissenting opinion in The People *ex rel. v.* Trustees of Schools, 78 Ill. 136." "I have never doubted," he said, "the authority of the Legislature to confer upon "school townships the power to take stock in a railway pro-"jected through the school township. Such a work may "greatly enhance the value of the school lands belonging to

"the township, and the dividends on the stock may relieve "the people from the payment of taxes to support schools "therein."

6. In Taylor *v.* Thompson, 42 Ill. 9, the Supreme Court of Illinois defined the phrase "corporate purposes" to mean, "a tax to be expended in a manner which shall promote the general prosperity and welfare of the municipality which levies it." And in People *v.* Dupuyt, 71 Ill. 651, the same court, in construing the phrase, said: "The true doctrine is, such purposes, and such only, as are germane to the objects of the welfare of the municipality, at least such as have a legitimate connection with these objects, and a manifest relation thereto."

7. Athough a corporation in making a contract acts in disagreement with its charter, where it is a simple question of capacity or authority to contract, arising either on a question of regularity of organization or of power conferred by the charter, a party who has had the benefit of the agreement cannot be permitted in an action founded on it to question its validity. It would be in the highest degree inequitable and unjust to permit the appellees to repudiate a contract, the fruits of which they retain.

Sedgwick on Statutory and Constitutional Law, p. 90, and authorities there cited.

R. J. C. WALKER,
HENRY FLANDERS,
Pro Appellants.

OFFICE SUPREME COURT U.S.
FILED
JAN 10 1881
JAMES H. MCKENNEY, Clerk.

No. 194.

IN THE

SUPREME COURT

OF THE

UNITED STATES.

WILLIAM WRIGHTSMAN
AND
CHARLES DAY,
} APPELLANTS.

vs.

WILLIAM C. CLARK et als.—APPELLEES.

BRIEF ON THE PART OF APPELLEES.

SPRINGFIELD, ILL.:
H. W. ROKKER'S PRINTING HOUSE.

—*In the*—

Supreme Court

—OF THE—

UNITED STATES.

WILLIAM WRIGHTSMAN AND CHARLES DAY, } Appellants.

vs.

WILLIAM C. CLARK et als., } Appellees.

BRIEF ON THE PART OF APPELLEES.

This was a suit in Chancery, instituted by the Appellees in the Circuit Court of Morgan county, State of Illinois, at the March Term, 1876, to restrain the collection of taxes which had been levied and assessed against their property by the County Clerk of Morgan county to pay interest on certain bonds which had been issued by the Trustees of Schools of township No. 14, north of range No. 9, west of the third principal meridian, in said county, to "The Illinois Farmers' Railroad Company," in pay-

ment for stock of said Company subscribed for by said Trustees of Schools, and to restrain said County Clerk from again assessing and levying taxes for the same purpose in any subsequent year.

The suit was against the Sheriff and ex-officio Collector of Taxes and the County Clerk of Morgan county, Illinois, and the then unknown owners of the said bonds.

An injunction was issued as prayed against said Collector of Taxes and his deputies, successors, &c., restraining him and them from collecting said taxes, and any other taxes for that purpose levied; and also restraining the County Clerk and his deputies and successors from again levying, assessing or extending taxes against their property for the payment of interest or principal of said bonds.

The owners of the bonds, the Appellants, afterwards came into said Circuit Court, and upon their motion were made parties to the suit, and secured the removal of the cause to the Circuit Court of the United States for the Southern District of Illinois. In that Court after some interlocutory orders in the cause, the cause was heard by the Court and the Court rendered a decree—holding the bonds void, the tax illegal, and making the injunction perpetual. From that decree the Appellants appealed, and bring the cause to this Court.

The Appellees insisted in their bill that the bonds were void and the tax illegal, the levy thereof and the proceedings to collect the same created and would create clouds upon the title to their lands, and that they were likely to suffer irreparable injury and to be involved in a multiplicity of suits, and that therefore they invoked the interposition of the Court of Chancery.

The Appellants claim that the bonds were issued under the provisions of an Act of the General Assembly of the State of Illinois, entitled, An Act to amend an Act entitled "An act to incorporate the Illinois Farmers' Railroad Company," said to be in force April 20th, 1869. See Session Laws of 1869, vol. 3, pp. 306 and 307, and which act is as follows:

In force April 20, 1869. AN ACT to amend an act entitled "An act to incorporate the Illinois Farmers' Railroad Company."

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That the act entitled "An act to incorporate the Illinois Farmers' Railroad Company," approved February 28, 1867, be amended, as follows: Instead of commencing at and running "from the town of Virginia, in Cass county," as provided in the second section of the act to which this is an amendment, said road shall commence at and run from the city of Jacksonville, and run by the most eligible route, to the town of Du Quoin, in Perry county; and that section twenty-five of said act be so amended as to read "Jacksonville" instead of "Virginia," and that the second section of said act be amended further by striking out "Chesterfield" as one of the points of said road and inserting "Carlinville"

§ 2. It shall be lawful for the corporate authorities of the towns, townships, cities and counties through which said road shall pass, to take stock in the said company; and shall also be empowered to make assessments, levy taxes and collect the same in the manner in which the said several towns, townships, cities and counties assess and collect taxes, for the purpose of paying the said assessments on the subscriptions to the said stock or the interest accruing thereon, and the said towns, townships, cities and counties may issue bonds bearing interest, at any point they may designate, either within or without the State of Illinois, at a rate not exceeding ten per cent. per annum, payable annually or semi-annually, as they may elect: *Provided*, that the said townships, cities or towns shall not subscribe to the stock of the said company, without submitting the said proposed subscription to a vote of the legal voters of their respective towns, townships, or cities, thirty days' notice of which shall be given, elections held and returns made as provided by the general election laws of this State: *And, provided, further*, that no such bonds shall issue, nor shall any interest be payable thereon or accrue, until said road is completed through the said town, township, city or coun-

ty: *And, provided, further*, that the subscriptions on the part of the said counties shall not be for a sum exceeding two thousand dollars per mile of the line of the said road in the said counties.

§ 3. In counties not under township organization it shall be lawful for the trustees of schools to make subscriptions for their respective townships, and issue bonds as provided in the preceding section; and for the purpose of paying the said subscriptions or bonds, or the interest thereon, shall levy a tax, not exceeding the rate of one per cent. per annum, upon the taxable property of their respective townships, and shall, through their treasurer, certify the said assessment to the clerk of the county court of their respective counties, and it shall be the duty of the said clerk of the county court to carry out the tax so assessed upon the collector's book; and the amount so raised by taxation shall remain in the hands of the treasurer of the proper county, and shall be employed by him in paying, first, the interest due on the said bonds, and then the principal, if any funds shall remain in his hands, and for no other purpose.

§ 4. In addition to the corporators named in the said act, Thaddeus D. Loomis and Thomas Joiner, of Macoupin, and William Bruen and James Epler, of Morgan county, shall be associated with the said corporators, with all the rights, privileges and powers of the persons named therein.

§ 5. All portions of the said act as are inconsistent with this amendment are hereby repealed; and this shall be taken and deemed a public act, and shall be in force from and after its passage.

In Force April 15, 1869.

This bill having been returned by the governor with objections thereto, and after reconsideration having passed both houses by a constitutional majority, it has become a law this twentieth day of April, A. D. 1869.

EDWARD RUMMEL, Secretary of State.

The second and third sections of the above act are those upon which Appellants rely, as conferring power to contract indebtedness by the Trustees of Schools and issue the bonds in question.

They also rely upon the facts that some sort of vote was had upon the question of subscription to the stock and issuance of bonds in payment thereof to the Railroad Company, and that taxes were levied in some manner to pay interest on the bonds,

and that such taxes have been paid during two successive years before the suit was commenced to sustain the collection of the taxes in question now; and that a certificate of stock was issued to Trustees of Schools of said township, and that such certificate was placed in custody some where, to be held in escrow for the Railroad Company that issued the certificate or for some company into or with which it has been consolidated.

The matters of fact relied upon by the Appellants would seem to be of very little use if there was any legal authority in the Trustees of schools of township No. 14, north of range No. 9, to issue the bonds in question; and if there was not, then the matters of fact relied upon by Appellants would not validate the bonds.

The Appellees insist that the bonds were not issued for a corporate purpose, and that no taxes could be imposed to pay such bonds.

They insist that all the steps taken in the attempt to create the so-called indebtedness, supposed to be evidenced by the so-called bonds in question, were done, had and taken by the Trustees in question without any authority of law, and therefore created no obligation against the property owners of said township or against the property legally taxable in said township.

That the so-called taxes mentioned in the bill in this case constitute an illegal imposition upon Appellees and their property, from the enforcement of which they are entitled to the protection of a Court of Equity by means of the writ of injunction.

The Appellees as a matter of fact allege, and it is not denied, that the Railroad which was to be built by "The Farmers' Rail-

road Co." was not built at all. That while a road was built through the township it was built by another Company in a different direction and not on the line of the Illinois Farmers' Railroad, as provided for in its charter and the amendment thereto, but as a part of a different railroad route. That what was to have been done by the Company to which the Trustees gave the bonds was in fact never done, and that the Company which received the bonds went out of existence by consolidation, and abandoned wholly its undertaking; that the tax-payers get no consideration for the money which is attempted to be forced from them by the collection thereof under the name of a township bond tax.

It may be said that such matters of fact need not be considered by the court in this case in determining the legal questions involved. That such matters do not aid the court in reaching a conclusion as to whether the bonds are valid or whether the tax is a legal or an illegal imposition on the property of the Appellees.

That if there was a valid statute conferring power on the body issuing the bonds—then, in the hands of innocent holders—the facts of the character alleged and relied upon by the Appellees in their bill are of no weight. And if there was no authority in law to issue the bonds then the facts so alleged are unnecessary to defeat the collection of the tax levied to pay them. It may be replied, however, that such facts do furnish ground for the interposition of a Court of Equity to relieve against an illegal exaction as the Appellees insist the tax in question is.

In this case the Appellees seek to restrain the collection of taxes to pay the bonds in question, upon the ground that the Trustees of Schools had no power to create any debt binding on the township or its inhabitants to aid in building a railroad.

No power to make subscriptions for stock in a Railroad Company.

No power to hold *any* elections for such purpose

No power to issue *any* bonds in payment of *any* subscription to the stock in a Railroad Company.

No power to levy and collect taxes to pay bonds issued for such a purpose.

The fact is admitted that the system of township organization did not, when the bonds were issued, exist, nor has it since, or at any time existed in Morgan county.

It is admitted that the Statute above quoted at large is the only attempt by law to clothe the Trustees of Schools with power to issue the bonds in question.

1st. The Appellees insist that the act upon which Appellants rely as authorizing the Trustees of Schools to issue the bonds in question is unconstitutional.

That Statute was enacted while the Constitution of Illinois, of 1848, was in force. The 5th section of the 9th article of that Constitution is in the words following, namely:

"The corporate authorities of counties, townships, school districts, cities, towns and villages may be vested with power to assess and collect taxes for *corporate purposes;* such taxes to be

uniform in respect to persons and property within the jurisdiction of the body imposing the same. And the General Assembly shall require that all property within the limits of municipal corporations, belonging to individuals, shall be taxed for the payment of debts contracted under authority of law."

The provisions of the act in question are precisely similar in all respects pertinent to this case, to those of the act, which was before the Supreme Court of Illinois in the case of *Trustees of Schools, &c., vs. The People ex. rel.; The Toledo, Wabash & Western Railway Co., 63 Illinois, page 299.*

In that case the constitutionality of the act was fully discussed, and the court held that so much of that act as makes provision for contracting the debt; that is, taking the vote to subscribe, making subscription to the stock of the Railroad Company and issuing bonds and imposing taxes to pay such bonds, is unconstitutional. The court says that the 5th section of article 9 of the constitution of 1848 is a limitation upon the power of the legislature and confined the grant of the right of taxation to corporate authorities and for corporate purposes; and the court held that the Trustees of Schools are not corporate authorities within the meaning of the Constitution of Illinois, and that a debt created by them to aid in building a railroad is not a debt created for a corporate purpose, and that no tax could be levied to pay such debt

The Supreme Court of Illinois again in the case of *The People on relation of The Cairo & St. Louis R. R. Co. vs. Dupuyt et al., Trustees of Schools, 71st Ill, pages 651-7,* fully discuss the same subject again. The law then before the court contained the same provisions as in the act under which the bonds in this case were issued. They discuss the question of power on

the part of the Trustees of Schools to create a debt to aid in building a railroad through the township. The character or nature of the corporations known as Trustees of Schools, is discussed, and the conclusion is reached and announced by the court, that the purpose for which Trustees of Schools are created a quasi corporation, is that of acting as such in matters pertaining to the public schools of the township, and that they possess no other powers. All other business is foreign to the object for which they were created a body corporate. They then say that the building of railroads is utterly foreign to the objects and purposes for which the Trustees of Schools were created a corporation by a public statute, and that they are unable to perceive upon what principle Trustees of Schools can embark in an enterprise of that kind; that a subscription to the capital stock of a Railroad Company could not be regarded as a debt created for a corporate purpose. They say that the people of the township cannot authorize the Trustees of Schools by vote to create or incur a debt to aid the construction of a railroad, to be paid by taxation, any more than they could by vote authorize a debt to be created by such Trustees by subscription to the stock of a manufacturing business to be established in the township, and to issue bonds therefor and to levy taxes to pay the same, and that section 5 of article 9 of the constitution of 1848 prohibits the levy and collection of taxes for either purpose.

The court say that it has frequently been held by that court, and must be regarded as well settled, that section 5 of article 9 of the constitution of 1848 is a limitation on the taxing power of the

State; that taxation cannot be imposed by a corporation except for a corporate purpose. The court then say: "The question before them is not a new one in that court; that the same question arose in the case of *Trustees of Schools vs. The People ex. rel.; Toledo, Wabash & Western Railway Co., 63rd Ill., 299-304*, where an act, in all essential particulars the same as the one under consideration, was held to be unconstitutional. We see no reason for departing from the decision then made. That part of the act therefore which authorizes a vote or election to be held, and which authorizes a subscription to the stock of a Railroad Company, and the issue of bonds and the levy and collection of taxes to pay such bonds, must be held to be in violation of section 5, article 9, of the constitution of 1848."

The Supreme Court of Illinois again in the case of *The People ex. rel. The Cairo & St. Louis R. R. Co. vs. The Trustees of Schools, 78th Ill, pages 136 to 142*, where the same questions were before the court and were discussed at considerable length, reached the same conclusion they had announced in the earlier cases above cited. The court points out the distinction between the objects, purposes and powers of the class of corporations or quasi corporations, known as school townships in counties wherein the system of township organization is not in force, and organized townships which constitute the "towns" in counties which have adopted township organization. The court say that "These school townships were created and are continued for school purposes alone and not for municipal purposes; they are only intended to establish schools and loan and manage the school funds of the

township and pay the teachers for the schools taught in their jurisdiction. This is the purpose of their organization. They were not created to exercise any of the functions of government, and hence are not municipal in their nature or purpose, nor are they provided with the officers or powers to exercise the function of government. Cities, towns and villages are endowed with such powers and are created and maintained for their exercise. Their very object is to aid in the government of the people; and such is true in a more limited sense of counties. But none of these functions are conferred upon school townships, but their creation is purely to aid in the great scheme of universal education. All of the Congressional townships in the State are created quasi corporations and are vested with limited powers to establish schools and perform the functions pertaining to that object. On the other hand townships created under the township organization law are invested with numerous and important governmental functions. They are authorized to locate and open and maintain roads, to construct and repair bridges, to pass by-laws regulating fences and the conditions under which stock may or may not run at large. Thus it is seen that these bodies are municipal in their character, while school townships have no such power, and the purpose of their creation is entirely different."

The court discussed the subject as to whether a power to levy a tax to pay bonds issued to aid in constructing a railroad conferred on a school township is conferred for a corporate purpose, and held that it is not.

They say, "To assert that because the General Assembly con-

fers the power to levy a tax for any purpose not at the time a corporate purpose, that thereby the law of the organization of such body is changed, so that the tax so authorized to be levied becomes a tax for a corporate purpose, would be to render the restriction in the Contitution nugatory."

And that they "fail to comprehend the force of such reasoning, and must give effect to the Constitutional provision and approve the construction given to this clause in the cases of *The Trustees of Schools vs. The Toledo, Wabash & Western Railway Co., 63 Illinois, page 299*, and *The People ex. rel. &c., vs. Dupuyt, &c., 71st Ill, pages 651-7*, when the same questions were before the court," and after discussing all of the points made in the argument in the case on behalf of the Railroad Company, the court conclude by saying, that "on a careful review of the former decisions of this court, and the reasons which led to them, we are fully satisfied with them, and we must regard them as announcing the settled law of this court."

I submit that were it insisted that the act in question empowers the county authorities to levy and assess and collect the taxes to pay the bonds issued by the Trustees of Schools, and does not mean to confer that power and duty on the Trustees of Schools to levy such tax—still that does not remove the objection that the tax is illegal and wholly unauthorized; for in that point the law is in violation of section 5 of article 9 of the constitution of 1848, which requires "such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the

same" The jurisdiction of the county includes all of the persons and all of the property in the whole county, while the tax, were it levied and assessed by county authority, would be only on the property in a single school township. A clear violation of the constitution in the particular mentioned. See *The County of Madison vs. The People, 58th Ill, pages 556 to 564.*

It may be observed in passing that this law did not receive the approval of the Governor of Illinois when it was presented to him for that purpose on its passage, but was vetoed for the reason that the Legislature was prohibited from empowering Trustees of Schools to create debts to aid in constructing railroads; that debts created for such an object by Trustees of Schools was not a corporate purpose. The Governor was not only an eminent lawyer but was an active member of the Convention that had framed the Constitution of 1848. So that persons dealing with bonds issued under this statute could not claim that they were the victims of misplaced confidence. The power of the Legislature to enact such a law was denied by one branch of the State government before it was passed, as appears on its face among the published laws of the State.

I think it may be regarded as settled so far as the Supreme Court of Illinois is concerned, that this law is unconstitutional; that there was therefore no law conferring power to issue the bonds or impose the tax in question; that the bonds are void and the tax illegal, and should not be collected. The Circuit court of the United States held the same view.

2. The Supreme Court of the United States holds itself bound by and will adopt the construction given to the Constitution and Statutes of a State by the Supreme Court of that State, where such decisions construing the State Constitution have been uniform.

This rule has been so frequently announced by this court that it seems almost unnecessary to cite the cases in which it has been applied. A few however may be referred to in passing.

Bank of Hamilton vs. Dudley's Lessees, 2 *Peters* 492; *McCutchin vs. Marshall*, 8 *Peters* 220; *Nesmith vs. Sheldon*, 7 *Howard* 812; *Randall vs. Bingham*, 7 *Wallace* 523-41; *Gut vs. The State*, 9 *Wallace*, 35 *to* 37; *The Township of Elmwood vs. Marcy* 92 *U.S.* 289; *The Town of South Ottawa vs Perkins*, 94 *U. S* 260; *County of Cass vs. Johnson*, 95 *U. S.* 360.

3. The Appellants claim that they occupy the position of innocent purchasers before maturity of the bonds mentioned in the bill in this case, and are bona fide holders of them, and are therefore entitled to enforce their collection, and to have taxes levied and collected for the payment of the interest and principal of said bonds; hence the taxes in question should be allowed to be collected for their benefit, and such collection should not be restrained.

This the Appellees deny, and they insist that since there was no legislative authority vesting the Trustees of Schools with power to create the debt and issue the bonds now held by the Appellants, the bonds are void; that there can be no bona fide purchaser and holder of such bonds, and that therefore the Appellants are not bona fide holders of the bonds.

The Appellees understand and assert the law to be that where negotiable paper has been issued by a municipal corporation without legislative authority conferring upon such corporation power to issue such paper, that the paper is void, and is so in the hands of every one who may become possessed of it. That want of power in the corporation to issue bonds is fatal to the bonds; and that there can be no bona fide holding of such paper. And in support of their position reference is made to the following cases decided by the Supreme Court of Illinois:

Marshall County vs Cook, 38 *Ill.*, 44; *Russell et al vs. The City of Kankakee*, 64 *Ill.* 249; *Middleport vs Ætna Insurance Co. et al.* 82 *Ill.*, *page* 562; *Barnes vs. Town of Lacon*, 84 *Ill.* 461.

And to the following cases decided by the Supreme Court of the United States:

Harshman vs. Bates County 92 *U. S. pages* 569–75; *Marsh vs Fulton County*, 10 *Wallace* 676; *Township of Oakland vs. Skinner*, 49 *U S.* 255–8; *Town of South Ottawa vs. Perkins*, 94 *U. S.* 260.

4. The Appellants claim to be entitled to enforce the collection of the bonds, and to collect the taxes levied to pay the interest on such bonds, because they say, after the bonds were issued, they were by the Trustees of Schools caused to be registered with the Auditor under the provisions of an act of the General Assembly of Illinois in relation to the registration of bonds issued in aid of the construction of railroads, in force April, 1869, and had caused taxes to be levied to pay interest on such bonds, and that the taxpayers of the township had submitted to the collection of such taxes, and that such taxes were applied to the payment of inter-

and especially when such taxes are imposed without lawful authority.

5. The Appellants claim that the proceeding in Equity by Bill for injunction to restrain the collection of the taxes in question is not proper and the relief prayed ought not to be granted.

a. The Appellees insist that proper grouuds for the intervention of a Court of Equity, by injunction, are alleged in the bill and not denied in the answer. That it is true in point of law that the collection of this tax, like any other tax imposed on the lands of the tax-payer under color of Statute in Illinois, is enforced by sale and conveyance to the purchaser at the tax sale of the land assessed, and such deed is made prima facie evidence that all of the steps taken in levying, assessing and attempting to collect such tax have been regular. *See Section 224, chapter 84, Revised Statutes Ill., 1874*, the statute in force when this tax was levied, and as the proceedings are regular on their face, the result would be to create clouds on the titles of the lands involved.

And a multiplicity of suits would also result if such relief as is prayed in the bill in this cause were not granted.

Such bills have been sustained in a great many cases which have been before the Supreme Court of Illinois as well as in the courts of many of the other States. Among the cases in the Supreme Court of Illinois are the following:

Town of Ottawa vs. Walker et al., 21 Ill. 605; Darling vs. Gunn, et al., 50 Ill., 425-9; Cumberland vs. Webster, 53

Ill., 141; Mt. Carmel R. R. Co. vs. Blanchard, 54 Ill., 240; Miller et al., vs. Goodwin, 70 Ill., 659.

Many other cases might be cited from Illinois Reports. Reference is also made to the case of *The Union Pacific R. R. Co. vs. McShane, 3 Dillon, C. C. Reports, page 304,* and cases there cited. *Dillon on Corpo ations, paragraph 753; Cooley on Taxation,* 543 *to* 547; *High on Injunction,* 208 *and* 367-9.

b. The taxes involved in this suit not having been levied and assessed and sought to be collected for the support of government —State or National—but for a mere private purpose, do not fall within the objection to equitable interference stated in the opinion of the Supreme Court of the United States in *State Railroad Tax Cases, 92 U. S. 575,* and especially on pages 614-15. This tax having been imposed and sought to be collected for a mere private purpose falls clearly within the class of cases where the Courts of Equity take jurisdiction and by injunction restrain the collection of illegal taxes. *See High on Injunctions, 369.*

To resume. The Appellees state a case entitling them to relief against the "Illinois Farmers' Railroad Company," alleging and showing fraud and failure of consideration so far as obtaining the issuance of the bonds in question is concerned. The bill is proper as to parties, and as to the subject matter, in that it alleges and shows that a multiplicity of suits will be prevented by this method of proceeding; alleges and shows that the proceedings to collect the tax in question would create clouds on the titles of Appellees to their lands unless restrained by injunction.

The Appellees are entitled to the relief prayed against the Appellants because the taxes sought to be collected were not levied by authority of law.

And because the bonds held by Appellants are void for want of legislative authority conferring power to issue them; and therefore no one is entitled to payment of the bonds, nor to any taxes levied for such purpose.

The decree of the circuit court appealed from making the injunction perpetual, was correct and should be affirmed.

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For appellees